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Government of Bengal

Report of the  
Land Revenue Commission  
Bengal

Vol. VI

Replies to the Commission's questionnaire by the  
Associations concerned with tenants, Bar Associations,  
etc., and their oral evidence

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**Associations concerned with Tenants.**



## **Memorandum by the Bengal Provincial Kisan Sabha.**

### **I.—General.**

In an agricultural country such as India, the land, its cultivation and its control, shape in great measure the social and political organization of the country. The very rapid decline in the number of peasant proprietors, therefore, which is accompanied by an increase in the number and power of the landlords and by the growth of the landless class, reacts slowly but surely upon the whole social fabric. And what is true of India as a whole is in particular true of the Province of Bengal where the peculiar and complicated land tenure system functions in such a way as to accentuate and accelerate these disturbing tendencies; decade by decade land passes out of the hands of the cultivator and "occupancy rights" to-day are possessed by comparatively few tillers of the soil. At the same time the landlord becomes more and more just a rent receiver who, on the one hand, contributes nothing towards the productivity of the land, and on the other hand, is forced to part with but little of his income for the upkeep of the State. Land is being transferred to the money-lending class at a phenomenal rate and the class of intermediary landlords, who derive their profit from the complexities of the land system, multiplies and helps to absorb the shrinking profits of agriculture. The situation to-day is grave; social and economic collapse faces the province. What has happened and is happening in Bengal is not some sudden and unexpected catastrophe following in the train of the world economic depression. On the contrary, the very statesmen who framed the Permanent Settlement and experienced the first years of its working, left on record their recognition of the evils for which they were responsible. In the passages quoted below and in a host of publications covering the last 150 years we find able statesmen, economists and administrators warning the Government that the existing land tenure system, based upon the Permanent Settlement, was driving the agricultural population towards ruin. What, indeed, is surprising is that successive generations have feared to tackle the problem and have handed it on to their successors in an aggravated form.

It cannot be denied, however, that to-day there is no question of handing on the solution of the problem to the next generation. The breaking point has been reached. The catastrophic fall in prices of raw materials at the beginning of this decade increased enormously the rate at which different forces were working towards the economic collapse of agriculture. This has led to a tremendous awakening of the masses; where grievances were formerly barely formulated they

were incorporated in political programmes, and where they already existed they were stimulated and given vocal expression to. The present Prime Minister of Bengal owed his election successes largely to his promise to abolish landlordism. It may be that such promises, easily made, are easily broken, but a popular consciousness of the inequality of the land system, once aroused, is not likely to subside quickly. Finally, though the masses of Bengal still remain illiterate, society is undergoing a rapid, though silent, change. On the surface old prejudices and customs appear to be just as firmly entrenched, but beneath a superficial conservatism one finds old barriers being broken down and the rapid infiltration of modern ideas, a knowledge of the outside world, a demand for education and for the satisfaction of new needs. The peasant, even if he is illiterate, is not a fool; he is very much more "abreast of the times" than most legislators think.

Whether, therefore, one approaches the problem from an economic, a political or a humanitarian point of view, it becomes clear that something has to be done now in order to avert disaster. The Government of Bengal consists predominantly of landlords, a class whose primary purpose (if we may judge from the pronouncements of the Landholders Association) is to maintain the *status quo*. That such a Government should feel obliged to consider either the revision or the abolition of the Permanent Settlement only goes to prove the reality of economic collapse and danger of political upheaval.

But there is a way out, though the solution is less easy now than it was fifty or a hundred years ago when it was first seen that the signals were set at danger. Any solution will meet with opposition from some section of the community just because unfair practices upon which certain people thrive will have to be cut away. It is no good pretending that any but more or less drastic remedies will meet the case. It must be remembered that any satisfactory solution of the problem will lead to two things (1) relief of the cultivator of the burden of a century and a half of rack-renting and (2) the increase of the revenue of the State so as to enable it to put into effect large scale schemes for the rehabilitation of agriculture. But we realize that whilst most people will agree with us as to the nature of the present crisis and its causes, and will agree, too, that "something must be done," nevertheless there will be many who defend the *status quo* on the grounds that our proposals amount to expropriation and the summary annulment of the prescriptive rights of the zamindars.

In dealing with the question of rights, we will have to go into history which will furnish us with a proper understanding of the fact of proprietorship over the soil. We will show that the zamindars were not the original proprietors of land. When the East India Company took charge of Dewani, it became necessary, on its part, to set

aside the immemorial custom of peasant proprietorship and in the interest of merchant capital, it substituted this custom by the theory of State-ownership. The revenue history before the Regulating Act and during Hasting's rule will leave no doubt in our minds that the State did not hesitate to take upon itself the charge of the land and raise rent in whatever way it liked. It is after the merchant capital had assumed this proprietorship that the same was conferred on the zamindars who were hitherto regarded as mere collectors of rent. Let there be no confusion over the fact that the zamindars as proprietors of the soil were the creation of the merchant capital. The arrangement of 1793 gave over to the zamindars all rights whatsoever, relating to land, but in the same breath it imported certain conditions on them that they would take care to pay heed to the right and well-being of the cultivator. Such a formulation is paradoxical and the conditions which we shall have occasion to refer to as we proceed may betray pious intentions of Cornwallis, but reality reveals to us that within the rigid frame of the Permanent Settlement and before the unrestricted right of the zamindars, these lose all significance and meaning.

The Permanent Settlement has conferred unrestricted right on the zamindars and this in its turn has rendered this system just a fabric of monopoly and tyranny under its grinding pressure. The Bengal peasant is now faced with poverty, disease and wretchedness of a fantastic dimension. Whether one experiences them through the medium of statistics or from a knowledge of hopeless conditions of village life, the distress is incalculable. Paradoxically enough, the speeding up of modern life by means of the post, railway, newspaper, etc., has not brought the outside nearer to the knowledge of the masses of India.

Most of the evils that have shown themselves in the social life of Bengal which call aloud for immediate redress may be attributed to the effects of the Permanent Settlement, some clearly and directly and others indirectly. Our experience tells us that the Permanent Settlement provides an iron framework within which little in the way of practical reform can be effected. A legislative reform may be placed in the statute book, but it can be rendered nugatory by the power that rests with the landholding class. If it is intended to take the landholder, he can easily pass the burden on to those beneath him. One of the striking facts of the history of land legislation of the last century is that the good intentions of such Acts as those of 1859 and 1885 have come to naught and the abuses they sought to put down continued in an aggravated form.

In a very real sense, therefore, it is the Permanent Settlement which is responsible for the present deplorable condition of our cultivators. In the minds of the oppressed cultivator it is this system

which perpetually strives through its various agents, the landlord, the money-lender and the police to drive him off the land. Under these conditions, the demand for the abolition of Permanent Settlement is not the outcome of the confused thinking, but has arisen out of a deep-rooted understanding of the impossibility of tinkering with the present system of land tenure.

It is an acknowledged fact that the Government of Bengal has lagged behind the Governments of other provinces in initiating and carrying out reforms or the institution of social services. Health, agriculture, education, irrigation, etc., have received even less attention in Bengal than in other provinces. As an example we may cite the budget figures for 1938-39—

|  | Madras. | Bombay. | Assam. | U. P. | Bengal. |
|--|---------|---------|--------|-------|---------|
| Budget estimate ..                           | 100     | 100     | 100    | 100   | 100     |
| Education ..                                 | 15·7    | 15·7    | 13·5   | 13·5  | 8·3     |
| Per centage of above on primary education .. | 61·0    | 54·6    | 28·4   | 39·6  | 21·1    |
| Health ..                                    | 8·2     | 6·1     | 8·7    | 3·8   | 5·7     |
| Police ..                                    | 9·7     | 11·1    | 11·5   | 10·6  | 12·1    |

Before the grant of provincial autonomy, at any rate, civilians in the service of the Bengal Government used to be tested with mild contempt by their colleagues from other provinces for their inability to pave and solve their problems. The tenancy legislation of Bengal is far more backward than that of other provinces. But this failure was not due to any inherent inefficiency in the officials, but to their complete frustration in face of the Permanent Settlement and the political forces whom they feared to antagonise by upsetting that Settlement. The result has been that a deadening spirit of inertia has descended upon Bengal and an unwillingness to tackle the problem in its entirety. Yet the resources of Bengal are as great as, if not greater than, those of any other provinces, its people less backward, its soil more fertile and less dependent upon artificial irrigation, and its capital the commercial centre of India.

Nor are the difficulties unique; they are problems that have had to be faced and solved by most European countries, more or less adequately in each case. Professor Mukerjee, in the work referred to above, examines the legislation of a number of countries designed to protect the cultivating peasant and to reserve for him a tolerable status within the agricultural economy of the country. The problems of Italy, Spain, Germany or Denmark need not be, it is true, the problems of India, but nevertheless it is beyond argument that these countries have had to deal with the same problems, viz., the threatened collapse of

agriculture through the driving of the peasant off the land, the multiplication of landlords, the subdivision and mortgage of holdings, etc., and they have dealt with them in much the same way, viz., by legislation to restrict rents, by curtailing transference and division of holdings, by buying out landlords and vesting the cultivator with proprietary rights. The analogy between the condition that obtains in Bengal to-day and those of pre-revolutionary Russia are, however, striking: the following description of the Russian peasant might well have been written of the cultivator in Bengal:—

"His holding was, on the average, minute in area; and in the repeated redistributions becoming smaller year after year. It was usually made up of numerous small strips, often miles apart which had to be cultivated according to the common practice of his neighbours. He had hardly ever any adequate equipment (one-third of all the holdings had no iron plough, but only a wooden stick; at least one-fourth had no ox or horse with which to plough). Manuring of any kind was at a minimum, and artificial fertilizers were scarcely known. There was next to no rotation of crops. The minimum of labour was spent on weeding. Reaping was by the sickle, and threshing by the flail; marketing practically limited to the passing visits of the grain dealer."

At the same time the Russian peasant was being driven rapidly off the land by rack renting and by the money-lender into whose clutches he was driven; holdings were being subdivided and mortgaged, and the status of the vast majority reduced to that of serfdom; meanwhile the big landlords, the kulaks and the usurer who invested in land were consolidating their hold on increasingly large estates. Professor Mukerjee, whilst deprecating the violent expropriation of the landlords and clinging to the prejudice that the inherent individualism of the Indian peasant is incompatible with collective farming or *artels* concludes that in India, as has been done in Russia, property and tenure must be defined in terms of social function and the leasing and alienating of land must be drastically restricted.

## **II.—The History of the Permanent Settlement.**

### *(1) Land Revenue, the basis of Indian Finance.*

Throughout the different epochs of Indian history exaction of the land revenue has been practically the sole source of revenue to the State. This was so under the early Hindu system; Manu, the legendary law-giver of ancient Hindu civilisation, was concerned with

the equitable adjustment of land revenue as one of the main tasks of State power. Hindu revenue systems were, in the main, incorporated in the polity established by the Mohamedan conquerors from the 13th century onward. In spite of certain modifications introduced by them, it is nonetheless true that Moghul India was a state resting primarily on the development and appreciation of land values. Vijnaneswar of Mitakshara and Madhayacharyya, the Prime Minister of the great Hindu State, Vijayanagar, who lived in the 9th and 13th centuries, respectively, never supported State ownership. It is argued that the immense confusion and complication of the land tenure system naturally made it difficult for a body of foreign traders, as the English originally were, to see their way through the question, who was really the owner of the land. But is it not a fact that the land system during the Hindu and Mohamedan rule was far more simple than what it is to-day? So the reason of confusion and complication in the land tenure cannot be cited as an extenuating circumstance in favour of the East India Company for their wrongly arrogating to themselves the landlordship of the whole country. Now that they have assumed the proprietorship of the land, they can, in these conditions, either alienate it to some private persons, or retain it in their own hands. They did one thing or the other in different provinces. The whole position has been laconically but most graphically described by Karl Marx in his "Capital." "If any nation's history, then it is the history of the English management of India which is a string of unsuccessful and really absurd (and in practice infamous) experiments in economics. In Bengal they created a caricature of English landed property on a large scale; in Southern India, a caricature of small allotment property; in the North West they transformed to the utmost of their ability the Indian commune with common ownership of the soil into a caricature of itself." Although we are only concerned with Bengal, where the former course was followed, it is well to note that outside Bengal also the course following from the State's assumption of landlordship has been open to serious criticism. It was pointed out at various times, notably by Sir Louis Mallet in 1875 with the assent of the then Secretary of State, Lord Salisbury, that a confusion had thus been created between *revenue* and *rent*; and that following the prevailing economic doctrines of the 19th century there had been too much tendency to consider that as great a share as possible of economic rent should be appropriated by the State; that the result had been to place upon the cultivators burdens they were not capable of bearing.

So much for the mischievous consequences of the assumption of State landlordship. But the work of scholars has since left no room for doubt that the assumption was a legal blunder. Sir Broughton Rouse argued in 1791, just before the matter was settled so far as concerned Bengal, that the State was *not* the proprietor of the soil, and

that in taking over the claims of the native rulers the Company had acquired not proprietary, but solely political right. Rouse's argument has since been confirmed—"The soil of India," writes one modern scholar, "belonged to the tribe or its subdivision.....and never was considered as the property of the king as has been assumed by many writers." (Mukerjee p. 16.) "Either in a feudal or imperial scheme, there never was any notion of the ownership of the soil vesting in anybody except the peasantry." (Mukerjee. p. 36).

We see therefore that the Settlement of 1793, to be described below, violently contradicted the spirit of Indian tenurial custom; and, since this custom has been prescribed by Parliament as the guiding rule, may even be said to have been *ultra vires*.

### *(2) The Moghul Revenue System.*

The Moghul Revenue system, considered in its days of relative purity, is well worth noticing; it set before itself an object that the British Company also had in its view in the outset, but abandoned in despair after a few years of half-hearted experiment. This object is indicated in a sentence of Baden-Powell; "The Moghul system, it should be always borne in mind.....was essentially raiyatwari; it went straight to the cultivator through the headman of each village." (Baden-Powell, p. 507). The Moghuls, that is to say, aimed to rest their State fabric directly upon the producing peasants, without allowing intermediaries to stand between them to their mutual disadvantage. This scheme of things may be described as in a sense democratic, and corresponds with the absence of any hereditary territorial nobility.

Practice was, of course, not altogether in line with theory. Even while Moghul power continued virile, the Revenue administration was not all of one piece. It fell into three categories, first, numerous Hindu Chiefs or Rajas could not be dislodged from semi-independence and were simply subjected to pay tribute, thus becoming in a sense fiscal agents of the emperor. Secondly, difficulties connected with the immaturity of money economy made it necessary that large numbers of high Government servants should receive their pay in grants of land instead of in cash. Their rights over the land were strictly limited and terminable at any moment; their collection of the land revenue was subject to official supervision. Thirdly, we have the method regarded as the ideal one whereby a staff of officers functioning directly under the Government assessed the liability of the cultivator and raised the taxes.

These three methods of collecting revenue were all made use of in Bengal after the addition of that province to the Mogul Empire. A

standard land revenue assessment was made for Bengal about 1582 by the great Hindu Finance Minister, Todar Mal. Various local magnates retained their territorial position subject to contribution to the imperial treasury. But apart from the areas under their control, revenue was raised either by officials of the provincial Government or by tax farmers.....the class later to be favoured as the Bengal zamindars. It is worthy of note that when the provincial Government in the 17th and 18th centuries was trying to expand its revenues, its best method was that adopted by Murshid Quli Khan in setting aside the tax farmers and collecting payments direct. This, however, in a remote province of a decaying empire, could not be the normal procedure. The zamindars were able to make themselves indispensable.

The Bengal zamindar, in the apt words of Harrington, an early official of the Company, was "a landlord of peculiar description not definable by any single term in our language." He was, in principle it cannot be overemphasized, as far removed as possible from being a land proprietor; he was simply and solely a Government agent with delegated powers; he collected from a certain area the moneys due from the peasant. In return, he received (a) a percentage (dastur zamindari) of what he raised, usually 10 per cent.; (b) an allowance (nankar), at first in cash and later consisting in the revenue from a certain portion of his area; (c) a sum to meet expenses of collection; and (d) a few extra fees. All that remained of the moneys that came into his hands he had to hand over to Government; and his discharge of this obligation, as well as his treatment of the peasantry, was scrutinised by a staff of officials (kanungoes and patwaris).

The point requiring to be insisted upon is that the zamindar was an agent and not a landlord. As an 18th century writer said, "There can be no question that the appointment of a zamindar is an office. To deny this appears to me like denying that a man has a nose upon his face." (Patton. "Asiatic Monarchies." p. 83). A British official wrote similarly: "A zamindar as such, was originally the mere steward, representative or officer of the Government. . . . As zamindar he possessed no right whatever *in the soil itself.*" (A. D. Campbell, 1832). The most obvious fact proving this contention is that the zamindar was at any time liable to dismissal. Hastings himself was among those British investigators who laid stress on this aspect of the zamindar's position. Remarking in 1786 that "The public in England have of late years adopted very high ideas of the rights of the zamindars in Hinduism," he went on to say; "The Mohamedan rulers continually exercised, with a severity unknown to the British administration in Bengal, the power of dispossessing the zamindars on any failure in the payment of their rents, not only *pro tempore*, but in perpetuity. The fact is notorious. Apart from liability to dismissal, we have other facts pointing in the same direction. Succession to a

zamindari was hereditary, which does not prove as may appear that the zamindari was a property, but the reverse, because under Indian law real property would be divided equally among the heirs. Moreover the hereditary succession could not take place except with official confirmation which might not be easy to procure. A zamindar could not transfer his office without the sanction of Government. An heir incompetent to fulfil the duties of his office would be excluded. In summing up, it may be said the official document, or *sanad*, which confirmed the zamindar in his position was clear evidence, intrinsically and in its provisions, of his status as a functionary pure and simple.

Rights of proprietorship in the land, which we have shown did not inhere either in the State or in the fiscal agents known as zamindars, were vested in the cultivating masses. These masses were organised in village communities which through all the upheavals of Indian history remained the indestructible units of national life. They were small worlds in themselves, containing an elaborate internal structure where caste and occupation were closely integrated. Their attachment to their soil was intense, their powers of resistance to outside pressure astonishing. The political forces which held sway in succession all recognised the village commune as something to which their system must be adjusted; and, though, in various ways in different parts of the country, they grafted themselves on to the village for the purpose of extracting economic support from it, none of them even thought of trying to break it up. Thus a Moghul officer might be given a village as a feudal fief, or a village headman might be raised by the Maharattas into a tributary "landlord"; but through all this, the soil remained with those who tilled it. The following quotation brings out this fact:—

"As the Indian village communities were of extreme antiquity, so, too, the proprietary rights in land of the members of the village commune constituted a perfect title (free from accidental or accessory elements), which was derived from the acquisition (or by descent from the reclaimers) of land that had been *res nullius*. The union, for mutual help, defence and protection, in a village commune, of the holders of these perfect titles, did not derogate from those titles as against the rest of the world, including any germs, or possible embryos of germs, of zamindars. Theirs was the most perfect title to the land in each village; and any who might come after, could become proprietors of land only in the same way (i.e., by reclaiming it from waste), or by carving estates out of the lands of a village commune, by purchase, violence or fraud."

And the writer goes on to say with more particular reference to Bengal and the Bengal zamindars; "The joint and several property of the members of a village commune in the lands of their own village presented insuperable obstacles to the purchase by strangers of

**zamindari** (i.e., landlord) rights in the whole or major parts of villages.” (Zamindary Settlement, p. 2.)

The character and status of the actual peasants may be given in the words of Baden-Powell. They were of two types, khudkasht and paikasht; “Both were by custom privileged, and were not liable to eviction.” “khudkasht properly means a man who cultivates his own land; and, in reality, it points back to a time . . . when the village cultivator was either a member of a body which had cleared the waste and established the village, or had become, by conquest or grant at some remote date, the virtual owner of it . . . Pahi or pai—kasht meant a man who came from abroad and took up land to cultivate without belonging to the village permanently. He retained the appellation of origin, even if he in fact continued to till the land year after year.”

These two classes of proprietors become the tenants, the raiyats, of the Permanent Settlement.

*(3) Fiscal Anarchy: The Later Moghuls and Early Company.*

The decline of the Moghul Empire was marked by a growing tendency of the various agencies of Government to grow apart from the Central executive. Feudal grantees (jagirdars), governors, and tax farmers settled down to a sort of local independence, and their position in regard to the land under them became obscured. The consequences for the peasantry have been described by a famous European traveller of the later 17th century. All kinds of functionaries, he writes, “have an authority almost absolute over the peasantry, and nearly as much over the artisans and merchants of the towns and villages within their district; and nothing can be imagined more cruel and oppressive than the manner in which it is exercised.” (Bernier, “Travels” Ed. 1914, p. 225). From Bengal we have an account of the disorders that ensued. It was notorious, says a report: “that most of the principal gangs of robbers are in league with some of the zamindars, and generally with those in whose districts they leave their families and deposit their plunder.”

These zemindars of Bengal were in fact coming to the fore as the dominant power in the country. The term include two categories, originally distinct, namely, the ancient Hindu nobility and the Moghul tax collectors. The latter were approximating to some extent to the status of the former. “The ‘zamindar’ had some land to begin with (i.e., land owned for personal cultivation; he soon bought up, took in mortgage, and otherwise made himself master of, other lands; he cultivated the waste with his own tenants, and it became his. And it is very likely that in these matters the lower order of men were more pushing and energetic than the old nobility; so that in the end, what

with the growth of the modern estates, and the decay of the older ones.....all zamindars came to be looked upon as one and the same, and their ancient differences of origin ignored." (Baden-Powell, p. 509.)

The zamindar was enlarging his revenues by illegal additions; he was not handing on these increases to the Government. His status was becoming most anomalous. Nonetheless, he was far from having effected a complete change in status; and so far as he had changed his status he had done so without any warrant in law or in recognised custom.

It was in 1765 that the East India Company achieved a political status in Bengal by securing the grant of the Dewani, that is, by taking over from the Emperor's lieutenant the function of revenue collection.

In regard to the Company, it need only be recalled that it was a strange and in many ways unsuitable instrument for the exercise of imperial power. As a mercantile body its paramount object was the fostering of dividends. It was the subject of uncontrolled speculation among investors in England; its organization was loose, was torn by internal dissension, and was not effectively supervised by the British Government. The result of this peculiar arrangement was that the Company's attitude to the provinces subjected to it was marked by contradictory tendencies, benevolence and rapacity. The former finds expression in a great number of official utterances, for example in the "Instructions to Supervisors" of 1769; "Among the chief effects which are to be hoped from your residence in the province . . . is to convince the raiyat that you will stand between him and the hands of oppression . . . that our object is not increase of rents or accumulation of demands." Macaulay, however, has summed up in a famous passage the incompatibility between the Company's exhortations to benevolence and its constant demand for more profits; and, as is well-known, it was the demand for profit that settled what should be done.

The East India Company, being a commercial body could have its eye only on the side of profit. It mattered little to them whether the profit accrued to them by legitimate means or by oppressive exactions. A few years after the Dewani, Bengal experienced the greatest of famines that ever befell her. But it was not the business of the Company to see whether the people were afflicted. They went on increasing the rent and year by year its incidence on the afflicted became sharper. It will no more appear incredible if we quote figures to show that the company did not fail to increase the revenue even though one-third of Bengal's population died during that famine. In 1768, the revenue had been Rs. 1,52,04,856; in 1771, it rose to Rs. 1,57,26,576. It should be remembered that Bengal lost one-third of her population within that short spell of three years. This simply testifies to the fact that the only motive that existed behind the land revenue policy of the East India Company was greater and greater exaction of revenue.

So far as it did consist of pure looting, the company's early method of raising revenue was imitating the worse side of Moghul fiscal administration to farm out the taxes for periods of five years at a time. The assessments were high, and zamindars in some cases refused to take them up, and were superseded. From 1777, under Warren Hastings, annual settlements were made, while the executive struggled to develop a better personnel for revenue supervision. It should be noted in this connection that before the Dewani the British merchants would bring capital from their own country for investment in India. But after taking charge of the revenue of Bengal, they did not need importing capital from England as they could invest the money they raised from land in their commercial undertakings. This has come to be known as the 'drain.'

Somehow or other, the Company had to find a way of giving to its business of extracting wealth from Bengal at least fixity and regularity. In 1784 was passed the Act of Geo. III, Chap. 25, ordering an arrangement of affairs up till then in most disordered condition. Lord Cornwallis set about this task cautiously and the outcome was the Permanent Settlement.

#### *(4) The Permanent Settlement.*

The basic innovations made by the Settlement of 1793 are simple. The zamindars were recognised, or rather created, as land proprietors in the English sense. They were no longer to draw revenue from independent landowning peasants; they were henceforth to draw rent from a dependent tenantry. Of what they raised, they were to hand over about nine-tenths to the State. But what they paid over was not to be a fixed proportion, but a fixed lump sum. Whatever the value of their estates might in the future turn out to be, they were to continue in hereditary possession of them on condition of paying this sum, which was to remain the same in perpetuity.

Clearly, as regards status at any rate the zamindars were being given a great deal. What they held was no longer an office, which however custom might change it from its origin could never be an unchallengeable advantage, but a property, which they could manage, transfer, mortgage, as they pleased. A further substantial favour was thrown in. At that time a vast part of the country was not under cultivation. All this waste land, Government made over to the zamindars. The settlement was not accompanied by any survey of the country, the boundaries of estates were not demarcated. It was taken for granted that the boundaries were known, and also what waste tracts lay within them. Proprietors were thus able to get into their hands valuable forests, etc., which could not in fact be said to form a natural part of their estates.

The consequences for the State Treasury of the sweeping changes of 1793, will be touched on later. Here we must go into the two main issues around which mountains of controversy have arisen. The first concerns the justice or wisdom of the act that transformed zamindars into landowners. The second concerns the intentions of the authors of the settlement in regard to the status and interests of the peasantry.

#### *A.—The Zamindars.*

Reasons have been given above for believing that under Indian Tenurial Law, the soil belonged neither to the 'landlord' nor to the State; and it is therefore hard to see how either of these parties could have acquired a right to bestow the soil on the other. "The zamindars, as stated by Sir Barnes Peacock, were not proprietors of the land up to 1793; millions of raiyats were. The breath of Lord Cornwallis could not unmake these millions, or destroy the custom, more ancient than the law under which they transmitted their rights to their descendants, and under which those descendants were continually acquiring independent rights in the soil by cultivating waste, subject, merely, to payment of the established pargana rate." (*Zamindary Settlement*, 429). This quotation is enough to show that it is quite possible to represent the Settlement of 1793 as, on this side, a tremendous act of spoliation exercised against a class that Government was pledged to protect.

Baden-Powell takes the view that it is too summary a proceeding to speak of Lord Cornwallis 'making tax farmers into landowners with a stroke of the pen,' "Moreover . . . it must certainly appear that no one intended to make the zamindar an absolute owner of anything, but to give him a certain estate in land (which is juristically a different thing), and that limited by a due observance of the rights of subordinate holders and cultivators. If, in effect, he got more than was intended, that was because the steps taken to secure the inferior rights were ineffective; it was not because the authorities were wrong in the view they took of the zamindar's position." (Baden-Powell, 523).

What then were the Government's reason for seeking to solidify the nebulous claim of the zamindars into a basis for its fiscal system? They are fairly easy to see. The Company had not yet any administrative machinery of its own capable of undertaking the assessment and collection of revenue. The zamindars, on the other hand, whatever might be done with them, could not be ignored. They were an institution in Bengal of long standing. Some of them, by origin local chiefs or Rajas rather than pure tax gatherers, did have a territorial position that might be expected to make them useful auxiliaries. Previous attempts on the part of the Company in the course of its experiments, to dispense with the zamindars had failed; there was nothing to replace them with. Politically, the Company's rule was uneasy; it needed allies, and hoped

to find them by attaching a strong native class permanently to its interests.

Economically, Company rule had reduced Bengal to exhaustion and it was necessary to find out a class that will guarantee the supply of an annual revenue to the company. Besides, Lord Cornwallis himself was a landlord and he had an estate in Ireland. History tells us what an ignominious part the Protestant landlords of England played in Ireland. It is no wonder that Cornwallis should set up a class in Bengal whose role would be as hateful as their brothers in Ireland. But the fun of the thing is that Cornwallis who imposed an alien and oppressive system upon the peasants expressed hope that these newly created landlords would see to the interest of the peasants and actively apply themselves to the improvement of their estates.

#### *B.—The Raiyats.*

In this section we shall discuss the humanitarian wishes of Lord Cornwallis, which were embodied in the Act of 1793. Cornwallis thought that by means of these, he had taken ample measures for safeguarding the interests of the cultivators.

Mr. Shore had drawn up a draft rules for the protection of the peasantry, but felt it difficult to interfere with the rights of landlordism. Cornwallis, while agreeing "that some interference on the part of Government is undoubtedly necessary for effecting an adjustment of the zamindars upon the raiyats," did not share Mr. Shore's difficulty. "If Mr. Shore means that after having declared the zamindar proprietor of the soil, in order to be consistent we have no right to prevent his imposing new abwabs or taxes on the lands in cultivation, I must differ from him in opinion, unless we suppose the raiyats to be absolute slaves of the zamindars; every bigha of land possessed by them must have been cultivated under an expressed or implied agreement that a certain sum should be paid for each bigha or produce and no more. Every abwab, or tax, imposed by the zamindar over and above that sum is not only a breach of that agreement, but a direct violation of the established laws of the country. The cultivator, therefore, has in such case an undoubted right to apply to Government for the protection of his property, and Government is at all times bound to afford him redress. I do not hesitate, therefore, to give it as my opinion, that the zamindars, neither now nor ever, could possess a right to impose taxes or abwabs upon the raiyat." (Zamindary Settlement, 142-3).

A declaration of the Bengal Government in 1822 is explicit in the same sense. "It was unquestionably competent to the Government in fixing its own demands, to fix also the rates at which the malguzar (landowner) was to make his collections; and it was, we think, clearly

intended to render perpetual the rates existing at the time of the perpetual settlement. The intention being declared, the rule is of course obligatory on the zamindars." (Zamindary Settlement, 28).

Baden-Powell attempts to set aside the above evidence. One cannot, he says (p. 523), trace any clear decision as to whether rents should remain at the then level; though he believes that there was an intention of doing more to restrict growth of rents than was later put in practice. He argues that there was not in fact in 1793 any ascertainable pargana rate".....that the later Moghul disorders had upset everything. "The idea that the whole body of raiyats had any guarantee under rule at fixed payments for ever, or that the law, when the Permanent Settlement was made, could have easily defined such rates and made them permanent too, is quite untenable" (p. 418). He adds that at all events new tenants settling on waste land could have no claim to exemption from rent increases, and that alone would seriously affect the question, seeing that so much of the country was waste in 1793 (p. 613). As against Baden-Powell's contention that there were no prevalent customary rates in 1793, we may quote the 1875 Tagore Lectures, which admit that the zamindars had previously been guilty of illicit additions to their collections, but maintain: "The zamindar was, however, to some extent controlled in his assessment by custom, which required that the rates usually paid by the village would be adhered to, at least in form. Those rates were well-known, and registers of them were kept by the patwaris and kanungoes in records called village and pargana *reybundees*."

The actual provisions of 1793 are inconclusive. The only definite ones are that all extra cesses levied on the peasantry should be consolidated in one lump sum with the rent, and no new ones imposed; that rents should be specified in documents (pattas), to be given by the landlord to the tenant; and that accounts should be kept and receipts given. This was all that was done to give effect to the large humanitarian utterances of the Government. There was too easy a belief, as Baden-Powell says, "that the relations of landlord and tenant (generally) would settle themselves.....a belief which resulted in the silence of the Regulations as to any definite terms of protection" (p. 610). The idea was encouraged by the expectation that the presence of such waste land would, as in the past, continue to keep down rents. But all this waste land now belonged to the same proprietors who owned the settled ground.

Summing up; the assertion is correct, that the provisions of 1793 did not stabilize rents at a permanent level. The assertion is also correct, that the intentions of 1793 were to stabilize rents for ever, not merely to limit their growth; otherwise a great many of the official writings of the time have no meaning at all. The Government solemnly promised protection to the peasantry whose status it had so arbitrarily

altered. It failed even to say clearly how it was going to give that protection. It certainly never gave it.

*(5) Working of Permanent Settlement in early years.*

A. *Zamindars*.—It might be expected that the personal competence of the zamindar class would have been carefully scrutinized. But this was not so. The zamindars were given their great position in spite of official knowledge that they were the last persons in Bengal whose capacities might be held equal to it. Shore wrote, at the end of 1793 .....“If a review of the zamindars of Bengal were made it would be found that very few are duly qualified for the management of their hereditary lands, and that in general they are ill-educated for this task, ignorant of the common forms of business, and of the modes of transacting it; inattentive to the conduct of it, even when their own interests are immediately at stake, and indisposed to undertake it. Let a zamindar be asked the simplest questions having any reference to the internal business and state of his zamindari, his replies would probably be the same as if he had never entered it, or he would refer to his dewan or some officer for information.” Shore had also written in the same vein.....“The ignorance of the zamindars, and their great inattention to the management of the concerns for which they are responsible, is as deplorable as it is universal.....Let the situation of a man in this predicament, at the head of a large zamindari, the management of which is intricate to a degree, be considered. Nothing can be more evident than that he must be exposed to endless frauds and impositions .....To those who have been used to consider zamindars as versed in all the functions of their situation and trusts as possessing an intimate knowledge of their tenants and an immediate connection with them, as animated with a regard for the prosperity of their estates, and as faithful executors of the public duties, these remarks will appear extraordinary. They are the result of my own experience combined with that of others; and I fear no refutation of them.” (Zamindary Settlement, pp. 133, 134).

So far from having gained a set of strong and loyal supporters in the country, the Government saw its nominees following one another into bankruptcy; particularly the other noble families whose presence had lent colour to the general recognition of landlordism. With a high assessment and ineffective management zamindars soon came within the reach of the severe Sale Laws, under which estates failing to meet their payment to Government were broken up and auctioned, at first with the cancellation of all subsidiary tenures on them. “In fact, it is scarcely too much to say that, within the ten years that immediately followed the Permanent Settlement, a complete revolution took place in the constitution and ownership of the estates which formed the

subject of that Settlement." (Macneile, quoted in Baden-Powell, p. 440). Official recognition of this process appears in papers of 1848. Mr. R. D. Mangles told a Committee of that year;..... "The Committee no doubt know that a great many of the permanently-settled estates changed hands shortly after the Permanent Settlement from sale..... The landholders in general were a miserable imbecile set; the Raja of Burdwan is almost the only instance of a great family who have kept their estates.....enormous estates.....together; the majority of the great landholders were not men of business, fit for the management of their own affairs, but poor creatures brought up in the womens' apartment, and sunk in sloth and debauchery." Zamindary Settlement, p. 134).

*B. Raiyats.*—The original zamindars, who might by some stretch of a Company officer's imagination look like country squires, were replaced by a new type of man, more efficient and more oppressive. "The men", said James Mill in 1831 "who now hold the property are not resident; they are capitalists who reside in the towns and manage by their agents." And being asked whether a necessitous zamindar was not likely to put the screw on his tenants, he replied: "I believe he almost invariably does so; there are exceptions of benevolent zamindars, but I believe they are very rare." (Zamindary Settlement, pp. 134-135).

Government not only knew of, but connived at, the devices whereby the zamindars transferred to their tenantry the evil results of their own incompetence or ill luck. In order that their payments might not fall in arrears, they were given legal powers of exercising arbitrary distress against peasants who did not pay them whatever they choose to demand. These legal powers were embodied in the "Qanun Haptam" (Seventh Regulation of 1799) and "Qanun Panjam" (Fifth Regulation), which sanctioned such a tyranny over the countryside that so lately as forty years ago it could be said: "The peasantry of to-day attribute all their misfortunes to Panjam and Haptam." (Baden-Powell, p. 634). The coercive powers given to the zamindars, it has been forcibly argued, resemble with a sinister closeness those given by the Tsars to the landholders of Russia. (Zamindary Settlement, p. 70). Among the more painful obvious results was a decay of law and order. James Mill in 1831 pointed to the zamindari system as the cause of the gang robbery that had until lately prevailed "to a frightful degree." "I cannot help believing that the degree in which the raiyats were exasperated by being deprived of their rights when the operation of the zamindari system began to be felt by them, was one great cause of these enormities.....When the men, who considered that they had a right to hereditary occupancy, were either turned out of their possession, or had the rates increased upon them to such a degree that they could not retain them; then it was that they became

desperate and had recourse to those extremities." (Zamindary Settlement, pp. 158-159). Much other evidence is available as to the rack renting and oppression carried on by the landlord class.

It must be remembered that all this was taking place in defiance of the spirit and the letter of the Government pronouncements of 1793. To take one point, so late as 1859, fifteen-sixteenths of the raiyats has not been given "pattas" specifying what they owed. (Zamindary Settlement, p. 59). Indeed, the peasants had shown no eagerness to acquire pattas, since it had very soon become plain that the zamindars would use the occasion of issuing them to drive up the peasant's payments, and equally plain that the Government would not stand in the way of this. The fiscal legal administrative machinery that in other provinces was being perfected for the purpose of enlarging land revenue, was not developed in Bengal, where it was wanted for the protection of the cultivator. The police were notoriously 'zabardast' (corrupt and oppressive); so were the lower Courts, while the higher ones were distant, slow and expensive.

By sacrificing the interests of the peasantry, the State did not even win the affection of their masters. Asked in 1832 whether zamindars could be reckoned a pillar of support, an official witness said: "I am not aware of their doing anything directly to uphold the Government; the indirect effect of a large body interested in maintaining the existing state of things may be considerable. But they still generally, I fear, dislike and fear us; and they certainly embarrass the Government whenever they think their own interests are likely to be affected by tax. Thus they.....set themselves to baffle the Government in all attempts made to discover the actual condition and rights of the great body of the people.....They appear to have been very successful in their resistance to all such measures, and so far have been, I think, very mischievous." (Zamindary Settlement, p. 136).

#### *(6) Official recognition of the failure of the Settlement.*

It is not long before we find official statements showing an awareness of the evil results of the Permanent Settlement; and it is remarkable that some of these statements appear to imply that the Act of 1793 was not thought of as having intended to create absolute proprietary rights, and that official circles were surprised by the logical consequences of what they had done. We may note at the outset that by the time Orissa came up for settlement (1812) the Home Government had already seen the unwisdom of a perpetual settlement with the Chiefs, and vetoed the proposal. A few selections from official papers may now be given.

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The Select Committee of 1812, in its "Fifth Report" came to the conclusion that the zamindars had not formerly been proprietors of the land; a zamindar simply had as his office "to superintendent that portion of the country committed to his charge," and "to collect the rent of Government."

In 1819, the Court of Directors said: "It is clear that, in every respect, the two classes of raiyats are equally entitled to the protection of Government; and.....however well intended for this purpose, our regulations under the Permanent Settlement have not been effectual to it." They further said: "It is impossible for us not to remark that consequences the most injurious to the rights and interests of individuals have arisen from describing those with whom the Permanent Settlement was concluded as the actual proprietors of the land. The mistake (for such it is now admitted to have been), and the habit which has grown out of it, of considering the payments of raiyats as rent instead of revenue, have produced all the evils that might have been expected to flow from them.....There can be no doubt that a misapplication of terms, and the use of the word 'rent' as applied to the demands on the raiyats, instead of the appropriate one of 'revenue,' have introduced much confusion into the whole subject of landed tenures, and have tended to the injury and destruction of the rights of the raiyats."

In the same year Lord Hastings wrote of the position given to the zamindar: "It necessarily invests him with the power of compelling, from the several families of the village, the payment of their respective portions of the general contribution, and our acquaintance with the propensities of the natives must make us sensible that such a power is likely to be misapplied in arbitrary and unjust demands."

In the following year a Government resolution was passed, containing the words....."It can be a matter of no surprise that very injurious consequences have followed from a system of management under which all persons coming under engagements with Government, and entered in the Government books as proprietors, have often been confounded as belonging to one class, and have frequently been considered as the absolute proprietors of the land comprised in the 'mahals' for which they had engaged."

In 1821 the Court of Directors laid down in respect of Bihar and Benares, but with an eye on past short-comings in Bengal, that the Commissioners' proposal of annulling the prescriptive rights of the raiyats could not be entertained, they commented....."This is the more remarkable on the part of these Commissioners, as they say: 'It is almost superfluous to observe that in the discussions prior to the decennial settlement, it was allowed that the raiyats had vested rights in the land, and the revenue authorities were especially enjoined to

secure them in them.' The annulment of all those rights, therefore, is or would be the most extensive act of confiscation that ever was perpetrated in any country. This is a subject of immense importance..... So long as the rights of the inferior classes of the agricultural population shall remain unprotected, the British Government must be considered to have fulfilled very imperfectly the obligation which it owes to its subjects."

The Select Committee of 1831-32 observed: In the permanently settled districts in Bengal nothing is settled and little is known, but the Government assessment. The causes of this failure may be ascribed in a great degree to the error of assuming, at the time of making the Permanent Settlement, that the rights of all parties claiming an interest in the land were sufficiently established by usage to enable the Courts to protect individual rights; and still more to the measures which declared the zamindar to be hereditary owner of the soil; whereas it is contended that he was originally, with few exceptions the mere hereditary steward, representative, or officer of the Government; and his undeniable hereditary property in the land revenue was totally distinct from property in the land itself....."Never" says Lord Hastings, "was there a measure conceived in a purer spirit of generous humanity and disinterested justice, than the plan for the Permanent Settlement in the lower provinces. It was worthy the soul of Cornwallis. Yet this truly benevolent purpose, fashioned with great care and deliberation has to our painful knowledge subjected almost the whole of the lower classes throughout these provinces to most grievous oppression, an oppression, too, so guaranteed by our pledge, that we are unable to relieve the sufferers.....a right of ownership in the soil, absolutely gratuitous, having been vested in the persons through whom the payment to the State was to be made, with unlimited power to wring from this co-partners an exorbitant rent for the use of any part of the land."

Remarks from James Mill's "History" reveal the view that had come on experience to be taken of the zamindar's character. He condemns the idea that police functions might be entrusted to the zamindars; and he quotes with approval a dictum of the magistrate in one district; "From the general character of the zamindars.....we do not think that it would be advisable to vest any of them with the powers of justices of the peace. On the contrary, we are of opinion that such a measure, so far from being in any way beneficial to the police of the district, would be a source of great oppression to the lower class of the inhabitants, and of innumerable complaints to the magistrate.....we have reason to believe.....that the zamindars not only in many instances encourage and harbour dacoits, but frequently partake of the property plundered by them."

It has been well said that the zamindars gradually trained the Government to believe that it was no use trying to interfere against their iniquities; that until about 1820 official consciences begun were keenly aware of their Government's sins of omission; and that then consciences began to fall asleep.

*(7) Later developments under the Settlement.*

We may first look at the later consequences of the Permanent Settlement from the point of view of the Treasury. Here we see what amounts to a continually increasing loss of revenue, not of course a drop in receipts, for these were fixed, but an inability to tap potential sources of increase. There was a rise of prices already in the later 18th century, and this went on during most of the 19th century. The result of the increment, had it remained with the producers would not have been a loss that an enlightened Government need have regretted; but it did not remain with the producers. It came into the hands of the landlords. An enormous disproportion, therefore, steadily grew up between the receipts and the payments of the zamindars. By 1880 it was calculated that the raiyats of Bengal were paying more by one half than the land revenue of all the rest of British India. Yet the Bengal Treasury was only receiving about £4 million from the raiyats. In effect, the Government was paying £20 million for the collection of £4 million; for in spite of changed forms the peasants' rent should still be considered as revenue, and the zamindar as nothing other than the collector of revenue. (*Zamindary Settlement*, p. vi-vii). Vakil quotes R. C. Dutt as saying that "By the end of the last century the State demand in Bengal was equal to about 28 per cent. of the rental of the landlords.....but this also shows the injustice that is done to the rest of India." (Vakil, p. 351). Mukherjee's estimate is slightly different: he thinks that in 1900 the Bengal zamindars were getting from the raiyats about 16½ crores and giving the Government less than 4 crores (Mukerjee p. 305).

Nonetheless, this was not enough to make the zamindars prosperous. Turning from the Government to the landlords, we are again compelled to recognize that the vision of improving a set of country gentlemen had been a mirage. "The testimony of good authorities, extended over a long period, is that the zamindars have done little or nothing, the raiyats everything, for the extension and improvement of cultivation. (*Zamindary Settlement*, as above). This dictum is as true now as it was when written. Meanwhile, changes are coming over the estates themselves. They were subject to repeated subdivision, both from being partitioned among heirs and from portions of them being lopped off and sold to meet arrears to Government. This made them poorer properties, and involved mortgaging and further alienation. A

report of 1868 says, "The vast majority of the estates for which revenue is paid direct to the Government are petty properties, and the larger ones are almost all so charged with subordinate tenures of a more or less permanent character, as often to leave the so called owner with only a moderate annuity. (Zamindary Settlement, p. 54). According to figures of 1882, thirty-nine districts of Bengal and Bihar then embraced 110,456 estates, of which only 41 per cent. were of more than twenty thousand acres, while 11·1 per cent. ranged from 500 to twenty thousand acres, and the great majority.....88·4 per cent. were of less than 500 acres. (Baden-Powell, p. 441).

One main reason for the impoverishment of the zamindars was the multiplication of sub-tenures on a fantastic scale. There had been subordinate tenures in the zamindaris before 1793, and some of these were treated as independent estates, while others were cancelled or allowed to remain upon an understanding with the superior landlord. We can distinguish four causes for the increase in subinfeudation after 1793. First, many sub-tenures were created in order that waste land upon an estate might be brought the more rapidly into cultivation. Secondly, the idleness and ignorance of the zamindars predisposed them towards granting away their responsibilities. "Many a zamindar, who had no taste for estate management, or had more land than he could manage, would by a well-considered farm, or sub-lease, greatly improve his income;" (Baden-Powell, p. 542) though in Mukerjee's opinion zamindars sold sub-leases chiefly under pressure of need for a lump sum to meet their excessive spending. (Mukerjee, p. 91). Thirdly, the wide gap between rent and revenue created a rich field where speculative capital could find employment; and fourthly, we must mention the lack of adequate industrial growth that would have given capital more constructive outlet.

An allusion to one big estate, the Darbhanga Raj, which had to be taken under the management of the Court of Wards, is typical of the general trend of affairs. "When the Court took charge, in 1860, its condition seemed almost hopelessly bad.....All the villages were leased to farmers (tax farmers), most of them relatives of the Raj servants, who had got their leases on favourable terms. Others were outsiders, men of straw, who had nominally undertaken to pay rents far above the value of the lands, and who made what they could by rack-renting the raiyats and levying illegal cesses.....The correct rental of the villages was nowhere recorded. The estates were destitute of roads and bridges. The palace was neglected and in ruins; its court yards quagmires; its environs a hopeless waste of jungle, pools, and filth..... No productive works of any kind had anywhere been attempted." (Official Report quoted in Baden-Powell, p. 696).

The apt summary had been made that Cornwallis imagined he was introducing an English estate system: he was really introducing an Irish System. (*Zamindary Settlement*, p. 65).

The key-note of the whole business was rack-renting. "The modern zamindar taxes his raiyats for every extravagance or necessity that circumstances may suggest." (*Administration Report of 1872*). The numerous sub-tenures naturally added to the exploitation. The lessee often had no other interest but to amass the largest profit to himself, regardless whether, on going out, he left behind him an estate sucked dry and tenants verging on misery. In 1843, the system was described as "striking its roots all over the country, and grinding down the poorer classes to a bare subsistence." (*Baden-Powell*, p. 638) "Modern landlordism," writes Mukerjee (p. 37), "has assumed the rights and functions of the village community and turned them to the suppression of the peasantry." We have to understand how this injustice acquired legal toleration. It began with the permission given under the Sale Law for the raising of rents on auctioned estates, a permission tacitly extended to all zemindars. A theory was gradually developed in the Courts.....the best excuse is that it saved trouble to the authorities .....that unearned increment belonged naturally to the land owner. Far from rents remaining fixed at the level of 1793, they came to be revised about every five years, so as to deprive the cultivators of all incentive to improvements.

We wonder the Board of Revenue had to confess in 1873: "The condition of the raiyats all over Bengal is that of hopeless indebtedness." (*Zamindary Settlement*, p. 55). By that time the zamindars and their sub-lessees were extracting about thirty times as much from the raiyats as they had done in 1793. (*Zamindary Settlement*, p. 5). Since then things have continued along the same lines, so that now, as Mukherjee remarked (p. 308), rent in Bengal has been driven up very close to, and even over, the margin of economic rent.

All this has engendered in the social life of Bengal deplorable qualities. It implies a valid agrarian warfare. "The conflict rages in the civil, and often in the criminal Courts with a bitterness peculiar to disputes about land, with an intensity of hate that, if spread over a great part of Bengal, is a conception of a kind to make the flesh creep; and with results ruinous to both parties, ruinous to the raiyats in the degree of the ill success of a poor man contending against a rich man in a Court of Law; ruinous to both raiyat and zamindar in respect of the corroding effect of hatred the moral qualities of our better nature. This melancholy strife.....has confirmed the people of Bengal in a habit of litigation which means the play of the worst passions; but under the euphemism of a tax upon litigation we sweep into the public Treasury, as the fold into the bank at a roulette table, a flourishing

stamp revenue and thank God for our beneficent, healthful moral rule of British India." (Zamindary Settlement, p. 74.)

*(8) Attempts at Legislative remedy.*

In the second half of the century the state of things had grown so bad that attempts at remedial measures could not be avoided. The measures in question centre round the two Tenancy Acts of 1859 and 1885. In these the well established traditions of benevolent enlightenment, so prominent in the discussions of Lord Cornwallis's times, were well maintained, unhappily, the effects of the legislation have again fallen far short of its intentions. We need not, therefore, go into detail about the measures designed. In the Act of 1859 a beginning was made of the distinction between occupancy and non-occupancy tenure, on which subsequent Indian land law has largely turned. Occupancy tenure was a status to be acquired by twelve years of continuous holding and once it had been reached rent could not be enhanced except according to prescribed and restricted forms. Beyond this, some provision was sketched for settlement of rent dispute; the severities of distress were modified; and a half-hearted attempt was once more made to effect the granting of patta and of written receipts. The Act of 1859 carried forward the analysis of tenures, but dropped the effort to bring about a general issue of patta.

These acts have been subjected to some criticism in principle; it has been maintained that their tendency was to give legal sanction to relations and practices which had come into being extra-legally. At the same time, it would not be fair to overlook the genuine desire manifested to set limits to abuses in the existing situation. What is of more importance, is that the operation of economic forces could not be held in check by the formulation of legal concepts, any more than it had formerly been restrained by philanthropic phrases. The growing pressure of the population on the land combined with fluctuation of prices to place the cultivator at the mercy both of the landlord and of the moneylender. We shall have to describe in the next part of our memorandum the situation that has thus evolved in the country side of Bengal. But before leaving the Acts of 1859 and 1885 we must lay stress on the dominant Act that they have not had an even approximately adequate success in ending those two curses of the Bengal peasant, rack-renting and eviction.

*(9) Conclusion to Historical Section.*

From this somewhat tedious historical narrative, we have gained two clear and important conclusions.

The first is, that when the authors of the Permanent Settlement recognised the zamindars as land proprietors, they did so in the sense of giving to this class a convenient description rather than with the intention of conferring on them the complete legal attributes that later attached themselves to their new status. We may emphasize this very important point by reference to the language used in the "great rent case" of *Thakurani Dasi vs. Bisweswar Mukherjee*, wherein the full bench of the High Court was assembled to thrash out the exact status of the zamindars. One of the Judges said: "Though recognised as actual proprietors of the soil, that is, owners of their estates, still zamindars and others entitled to a settlement were not recognised as being possessed of an absolute estate in their several zamindaries; there are other parties, below them with rights and interests in the land requiring protection.....The zamindar enjoys his estate subject to, and limited by, those rights and interests. . . . The notion of an absolute estate in land as alien from the Regulation Law as it is from the old Hindu and Mohamedan law of the country."

Another Judge said it was "clearly established that, by the terms of the Permanent Settlement, the zamindars were not made absolute and sole owners of the soil, but that there were only transferee to them all the rights of Government. . . . it being further established that the khudkasht resident raiyats retained a right of occupancy in the soil, subject only to the right of the zamindars to the certain proportion of the produce represented by the pargana or district rates."

### **III.—The Permanent Settlement in Bengal to-day.**

Lord Irwin, during his viceroyalty of India, recognised the faults of the Permanent Settlement and the evils that had resulted from it: "It involves a sacrifice of the share of the State in the growing values of the land and perpetuates assessments that must become more and more uneven as time goes on. Any measure, too, which tends permanently to limit the share which any class is called upon to contribute to the general revenues is almost certain to result in an unfair burden upon the other classes."

The inequity of increasing the burden of rent for the cultivator and exempting the zamindar from new taxation is obvious; at the same time, the increase in the number of rent receivers, eating up the profits of agriculture, rapidly depresses the status of the actual tiller of the land and encroaches upon the standard wages of cultivation. In proportion as the number of functionless landlords increases, so the number of uneconomic holdings increases and the majority of the actual cultivators are left with no surplus after payment of rent and interest on debt. In the preceding section we have seen how the

Permanent Settlement settled nothing as far as the cultivator was concerned; from 1793 onwards we see, at an ever accelerating pace, all those tendencies at work which are driving the cultivator from the land and draining off the profits of agriculture into the pockets of those who add nothing to its productivity.

*(1) Census figures of Agricultural occupations.*

We are told that in 1842 there were no landless peasants in India (Sir Thomas Munro, Census Commissioner); in 1872 there were  $7\frac{1}{2}$  millions; by 1931 about 30 per cent. of the whole population engaged in agriculture in Bengal was not only "landless", but not even admitted to temporary occupation of the land as "bargadars" (*vide infra*). The comparison of the Bengal census figures for 1921 and 1931 is significant:—

|                               | 1921.                             | 1931.     |
|-------------------------------|-----------------------------------|-----------|
| Landlords and rent receivers  | ..      390,562                   | 633,834   |
| Cultivating owners or tenants | ..      9,274,924                 | 6,079,717 |
| Labourers                     | ..      ..      ..      1,805,502 | 2,718,939 |

The first and most obvious point to make in connection with these figures is that the class of rent receivers has increased by about 62 per cent. (The 1931 figures exclude those who are rent receivers as a "subsidiary occupation".) At the same time landless labourers have increased by about 50 per cent., and cultivating owners and tenants have decreased by about 34 per cent. These figures are themselves staggering. As a basis for investigation, however, they suffer from certain defects—

(a) It will be seen that apparently some two millions fewer were employed in agriculture in 1931 than in 1921; moreover, we see that although the population in this decade increased by about  $3\frac{1}{2}$  millions the total number of earners appears to have decreased by 2 millions. This discrepancy is explained by the use of different methods and terminology at the two census operations. In 1921 the population was divided into workers and dependants; in 1931 we find earners (principal occupation), earners (subsidiary occupation), and working dependants (both subsidiary and principal), and finally non-working dependants. But the rectification of this discrepancy only leads us to conclude that in actual fact, though the decrease in owning and tenant cultivators may not be so great as appears from the figures viz., 34 per cent.) the increase in the number of rent receivers "and of landless labourers is actually greater.

(b) In 1931 a distinction was made between cultivating owners, i.e., cultivators who had some sort of right in the land they tilled, and cultivating tenants. No such distinction was made in 1921. But the categories adopted in 1931 are admitted to bear little or no relation to the actual legal status of those concerned. The distinctions made were, in fact, arbitrary, as can be seen from the report on the census operation: "On these considerations (i.e., the difficulty of defining the words 'owner', 'proprietor', 'tenant', etc., and the extreme complication of the land system as legally recognised in the Bengal Tenancy Act) it was decided that a clean sweep would have to be made of the existing terms and notions current in Bengal.....even if a cultivator was not a tenant under the definition in the Act (viz., the Tenancy Act), he was still to be regarded as a cultivating tenant and returned as a cultivator but without permanent rights if he was entitled to remain in possession of his (*sic*) land during the season in which the crops sown and tended by him were in the ground although he might be liable at the end of the season to make over a proportion of the crops to the person with a title in the land." It is, perhaps, worth quoting from the instruction to census supervisors—"Those who have no right, title or interest in the land, and cultivate for wages in cash or kind are to be entered as agricultural labourers; those who have a right (etc., etc.) and actually cultivate it themselves or by servants or by hired labourers are to be entered as cultivators. If they have a tenure or a permanent tenancy or a tenancy with occupancy rights they must be entered as cultivators with a permanent interest. If they have no tenure and no permanent right but have a temporary or oral lease, or a lease as a *korfa* or *dar-raiyat*.....or have not any lease at all but merely right to the possession of the land by virtue of a mortgage, or an *utbandi*, or *barga*, or *adhiari*, or *bhag* settlement, even though they may not be tenants under the Bengal Tenancy Act, they must be entered as cultivators without permanent interest." No doubt division into such categories was both practical and valuable, but it cuts across the normal conception of different rights within the Bengal land system and obscures many of the most important social and economic classes.

(c) By far the most important of the results from the "clean sweep" described above, is the decision to regard bargadars as tenant cultivators. As admitted by the Census Officer, there is no legal justification for this definition and when we come to describe the status and the conditions of this unfortunate class of the agricultural population we shall see that they have far more in common with the landless labourer or even with the farm serf than with any description of tenant. The artificial definition adopted in the census is unfortunate because it tends to obscure the extent to which the peasant is being driven off the land. A bargadar, having no right or title in the land he tills on an oral

and annual lease, is to all intents and purposes driven from the land. It is impossible to say what proportion of the land in Bengal to-day is cultivated through bargadars, but it must be clear to any one who has any knowledge of the Bengal country side that this form of so-called "tenancy" is increasing at a fantastic pace and that to-day, in some areas at any rate, as much as one-third of the land is cultivated in this manner.

We are driven to the conclusion, therefore, that remarkable as the figures for the decade ending 1931 are, nevertheless the real state of affairs is even worse.

#### *(2) Tendency since 1931 Census.*

Unfortunately no statistics are available since 1931. But it is not difficult to foretell what the 1941 census figures will reveal. One may confidently assert that the same tendencies will be seen in a vastly exaggerated form, for since 1931, the whole agricultural economy of Bengal was stricken by the effects of the world economic crises; nor has it ever really recovered as we shall see later. The drastic fall in prices hit the landlords in so far as they could not collect their rents and had to resort to eviction in the Civil Courts; it hit the middlemen, too, to some extent; but it was the peasant, indebted to landlord, middlemen, and moneylender alike, who felt the real weight of the crisis. Millions, who by starving themselves, eked out a precarious livelihood on an uneconomic holding and by borrowing at exorbitant rates of interest, succumbed and have, since 1931, joined the ranks of those without land or, it is to be feared, much chance of working for those who have. The census figures of 1931 were collected at the end of a period of exceptional boom in agricultural prices. In 1928 East Bengal appeared to the superficial observer, to be prosperous. We can only guess what the 1941 figures will reveal. In the debates in the Bengal Assembly on the Amendments to the Tenancy Act it was stated, and generally accepted as undeniable, that to-day at least 50 per cent. of the agricultural population is landless and that the number of actual tillers of the soil with occupancy rights is diminishing so rapidly as to indicate that the disappearance of this class is imminent. The backbone of the Bengal peasantry is being reduced, by the rapidity of land transfers, to the status of inferior tenants (bargadars, etc.) and agricultural labourers. Professor Mukerjee says: "The number of transfers of occupancy holdings effected by registered deeds has risen from 43,000 in 1884 to 2½ million in 1913 (and progressively more since then, no doubt). This implies the displacement from the soil of a highly desirable class of cultivators who are bought out and apparently must swell the ranks of the landless proletariat. The labourers, however, do not go into the mills,

factories and plantation of Bengal, which are mainly fed by up-country labour. They work either as under-raiyats or as hired farm hands and labouring partners. The former work at rack-rent on their own holdings, which have passed into the hand of their creditors, the fertile cause of under-cultivation and poverty" (p. 157). So long as the country is not industrialized to keep pace with this process, or unless this process can be at once checked, holding will continue to become more and more uneconomic and there will be a vast amount of agricultural unemployment and misery. These conditions breed social unrest and portend disaster.

(3) *Rent enhancement.*

At the time of the Permanent Settlement it was arranged that the Government should take 90 per cent. of the collections and the remaining 10 per cent. should be appropriated by the zamindars. The amount for which settlement was made was little more than 3 crores of rupees, that being the amount which, with minor variations, the Company had been collecting from 1765 up to 1793. In 1900, according to Professor Mukerjee, the revenue demand was as follows:—

|                             | Rs.            |
|-----------------------------|----------------|
| Permanently settled estates | ... 32,322,617 |
| Temporarily settled estates | ... 3,423,267  |
| Khasmahal estates           | ... 4,104,753  |

But "according to the Cess Report of the Revenue Board the zamindars obtained 16½ crores approximately from the raiyats..... According to this arrangement (i.e., the proportion fixed in 1793), the zamindars ought to have received Its. 40 lakhs; instead they appropriated Rs. 12½ crores, while the raiyats are actually paying 30 times more to zamindar than their due for the collection of revenue. For a century and a half the zamindars have appropriated a total amount of Rs. 1,800 crores approximately."

Of course this enormous increase in the total amount of rentals collected by the landholding class does not mean that individual rents, since 1793 have been increased in exactly that proportion. A large amount of the increase is accounted for by the fact that large areas of land were brought into cultivation and leased out to new tenants subsequent to 1793. Moreover the process of subinfeudation has meant an increase in the total amount of rental paid. But apart from these considerations it is not difficult to show that year after the burden of rent has been growing heavier and heavier and, in consequence, the amount being appropriated by the rent receiving class from the

productivity of the land growing greater and greater. During the second session of the Bengal Assembly, 1937, when the Tenancy Act was under discussion the total rental of Bengal was assessed by three different speakers at 29 crores (17 crores legal and 12 crores illegal), 30 crores (20 legal and 10 illegal) and 26 crores (20 legal and 6 illegal). If these figures are in any way correct, they show that enhancement is going on apace. Turning to the census report of 1931, we learn that between 1921 and 1930 there was an uninterrupted increase in the number of suits for rent enhancement; during the decade there were 200,104 such cases . . . four and a half times as many in 1930 as in 1921. The Census Officer ascribed this increase to the general setback in economic conditions, and it is, therefore, not unreasonable to assume that since 1930 when economic conditions deteriorated, the process has been carried still further.

The Bengal Tenancy Acts of 1859 and 1885 attempted to restrain within limits the enhancement of rents; it is questionable to what extent they really did so. To take only the Act of 1885, we see that rent can be raised by contract: such enhancements are limited to 2 annas in the rupee, and the rent so fixed cannot be altered for fifteen years. It is, however, a notorious fact that not a few peasant cultivators prefer to contract themselves into paying enhanced rents rather than go to the trouble of fighting a suit in the Courts. Nor does the landlord limit to such kinds of pressure in order to get his tenant to execute a contract for enhanced rent; few tenants could stand up against the numerous forms of pressure that the landlord can bring to bear, and, as a result, it is common experience of Settlement Officers that rents in the district under survey have been being enhanced regularly, without even waiting for the prescribed interval of fifteen years; moreover, as far as can be seen, this enhancement has been with the consent of the tenant.

But rents can also be enhanced by suit in Court. The grounds upon which a decree is granted are—

- (a) that the rate is below the average rate for occupancy raiyats,
- (b) that the average prices of staple food crops have risen, and
- (c) that the land has been rendered more productive either by reason of improvements made by the lord, or through fluvial action.

As far as those grounds specified in the Act are concerned it need only be said that they offer a very wide scope for the rapacity of the landlord. Obviously the first ground presents a vicious principle . . . viz., the more a landlord can raise rents by so-called contract or agreement, the more he will be able to raise them by resort to the Courts. As regards the second ground, the implication is that it is the landlord

and not the cultivator who is to benefit by an increase in prices, and it does not follow that in lean years the cultivator will be able to demand and secure a reduction in rent. We shall have more to say later concerning improvements made by the landlord in the land of his tenant.

But the most serious criticism of the Tenancy Act as a check upon enhancement is that it seeks to protect the occupancy raiyat as such. It gives virtually no protection to the non-occupancy raiyat nor does it provide any check on a raiyat losing his status of occupancy. In other words, the person whom the Act protects is a creature of status; the Act does not protect as such, the men who tills the soil. What has happened to-day in Bengal is that the man who has an occupancy right in the land no longer tills the land. He sublets it to a sub-raiyat, but he retains (to his advantage) all the rights of an occupancy raiyat. The sections of the Act which were meant to protect the cultivating peasant are now being used to protect a new type of landlord; the right of occupancy which were meant to save cultivator from unfair enhancements actually serve to enable a petty landlord to rack-rent some one below him. This pernicious cottier system is inevitable where there is no check upon sub-letting and where there is no protection provided for the actual tiller of the soil as such. The vital blunder was to choose a legal personality for protection under the Act.

Not only the raiyat himself does sublet, but, what is even more common, landlords and members of the moneylending and petty trading class are buying up the raiyati holdings as their original holders have to sell out. These new "raiyats", if they can be so-called, do not cultivate the land, but they acquire all the privileges of occupancy. The rent of the under-raiyats to whom the land is leased is often ridiculously high . . . e.g., as much as Rs. 36 per acre as compared with an average rental of Rs. 3 to Rs. 4 per acre for occupancy raiyats. The Bengal Tenancy Act does, it is true, give some protection to the under-raiyat, but the High Court in a ruling that may be legally sound but is most inequitable, have decided that section 48 of the Act does not apply unless the raiyat sublets the whole of his holding. All he has to do is to split up holding and he can enhance the rent as he likes.

As may well be imagined the holdings of under-raiyats are smaller even than those of raiyats . . . in the district of Faridpur the average size of such holdings is 1.4 acres. With such minute holdings it is clear that the section of the Tenancy Act which legalises enhancements in view of a general rise in prices, is most inequitable; for, on small holdings, production can only be for home consumption and not for sale in the open market. Tenants who have no surplus agricultural product for sale clearly do not benefit from rise in prices.

(4) *Illegal exactions (Abwabs).*

According to the Report of the Settlement Officer for the district of Bakarganj the amount collected annually over and above legal rents is Rs. 20 lakhs, which is more than the entire Government revenue for that district. As we have seen, members of the Assembly estimate the amount for the whole of Bengal variously at 12 crores, 10 crores and 6 crores. It is impossible to say which figure is correct; all we can say that the amount is stupendous. According to Mukherjee the incidence of abwab varies from 30 to 120 per cent. of the legal rental, and he gives one instance (p. 134) of a raiyat whose rent was Rs. 10-15-6, but, from whom Rs. 11-1-0 was taken as abwab. These abwabs are nothing but feudal levies differing from district to district and being variable in amount. Sometimes they are marriage fees, fines for social offences, tolls and taxes for carrying on certain trades. Some zamindars levy a tax on tenants who dig tanks (ponds), others tax them for the construction of roads and canals. Of a different kind are the levies made on the occasion of a marriage or funeral in the landlord's house, or to pay for the purchase of a new car or horse for him. But even this list is not exhaustive; Mukherjee reports the ironic case of a landlord who levied a tax of  $2\frac{1}{2}$  times the rental in order to pay the costs of his own litigations.

Apart from the flagrant criminality of these exactions, there are two important aspects to be noted. Firstly, there is a tendency for these abwabs, in the course of time and as they become hallowed by custom, to be thought of, and finally consolidated, as part of the rent. The raiyat is so used to paying these illegal cesses, often in the face of physical intimidation, that he neither resists nor protests when they are incorporated as part of the rent. Moreover, as he has not been in the habit of receiving rent receipts, the superficial change in demand does not strike him. But in this way rents are illegally enhanced with the consent of the tenant. Secondly, it is becoming increasingly common for a landlord to demand nazarana from a tenant with whom he settles land—that is a lump sum will be paid down by the tenant before taking possession. This lump sum is over and above the fixed rental; but since it is really nothing other than a payment of rent in advance, the tenant is tacitly allowing himself saddled with an illegal enhancement of rent. In this way "protected" holdings are, to all intents and purposes, rendered "unprotected." In the case of holdings which are not occupancy ones it is common for the landlord to extort nazarana as the time approaches when the tenant will acquire an occupancy right. Failing that he will evict him. Since in the zamindari provinces transfer of occupancy and other holdings takes place with considerable frequency, the landlords make a very large sum of money annually from the levy of nazarana.

The exaction of abwabs over and above the fixed rent is illegal; it was declared to be so in 1793, and again most specifically in 1859 and 1885. In 1937 fresh legislation was once again being debated with a view to suppressing this offence. Probably no single class of persons has such an inglorious record of criminality to their credit as the landlords of Bengal have. And yet it is doubtful whether one single case has been brought against the landlords, or any one of them, in order to check this abuse. Certainly illegally enhanced rents have been reduced at the all too infrequent settlement surveys, but normally the cultivator has been left unprotected. India can boast of a number of "dead" laws; but every attempt to check illegal exactions had been still-born. The zamindars have in this respect treated Government officials with a staggering impudence; nobody cares to deny nor conceal the fact that those exactions are often made with the accompaniment of physical violence. The acquiescence of officialdom, whether from political motives or out of sheer inertia, is one of the least creditable records of British Government. There have been some attempts recently in some of the Provinces, which, like Bengal, have a zamindari settlement, to make the illegal exactions of abwabs punishable by imprisonment; it appears that the landlords have successfully opposed this display of energy upon the part of the Government concerned; whilst they are prepared to admit a repetition, in legal form of the illegality of this practice, they are not prepared to make it a cognizable offence or punishable by imprisonment or fine.

#### *(5) Rent and Revenue.*

The average incidence of revenue paid by the zamindar is 10 annas 8 pies per acre; the average rental for all classes of land and for all classes of holding is Rs. 3 or, in other words, about five times the amount of revenue paid. This proportion is what we should expect since we know that the total revenue paid to the zamindars is about Rs. 4 per acre and it is estimated that the total rentals, exclusive of illegal exactions, is between Rs. 17 and Rs. 20 crores. But whilst the rents of occupancy raiyats, enhanced though they have consistently been under the provisions of the Tenancy Act, do not show any startling variations, those of non-occupancy raiyats vary enormously. In general and upon an average, it may be said that non-occupancy raiyats pay double the rent which is paid by settled or occupancy raiyats, but in saying this we should remember firstly that this is only a generalisation and that often the rents of non-occupancy raiyats are as much as Rs. 20 to Rs. 25 per acre; and secondly, that the holdings of non-occupancy raiyats are very much smaller—the average size is only 1.39 acres in the district of Faridpur—and that therefore the burden of high rents falls upon them with a severity out of all proportion.

The landlords of Bengal are exempt from income-tax so far as the agricultural incomes are concerned; but the Bengal revenue is only one-half of the amount collected from income-tax from classes other than the landlords, as compared with Bombay whose land revenue is double the amount collected by income-tax. This means that income derived from industry, professions, etc., etc., are being unfairly taxed compared with incomes derived from land. This inequitable distribution of the burden of taxation clearly plays an important role in retarding the industrialisation of the country. No man is likely to invest his savings in the comparatively risky province of industrial enterprise when he knows that by investing in land he will be acquiring a more or less tax-free income. The Permanent Settlement is, therefore, directly responsible for the industrial backwardness of the province and for the appalling process of subinfeudation which makes profitable agriculture impossible.

*(6) Intermediary landlords and subinfeudation.*

We have seen that the number of rent receivers increased during the decade 1921-31 by about 62 per cent.; this is simply an increase in the number of intermediaries between the zamindar and the cultivator. The process was started immediately after the framing of the Permanent Settlement with the inability or the unwillingness of the zamindars to manage their own estates it gathered speed as new lands were brought into cultivation; it became a mad race during the period of the general rise in prices when rents were systematically raised on all sides under the provisions of the Tenancy Act, and the margin of profit between rents and revenue grew wider; and now, in the last few years, it has become a frantic scramble on the part of userers and petty professional middle class men to buy their way into the rent-receiving class.

"The zamindar need not part with his estate by an absolute sale, but can raise money by allowing his proprietary right to be subdivided into smaller estates of minor value; he still retains his status and receives an annuity that leaves enough margin for his payment of Government revenue. Inferior tenure-holders follow the same practice, with the result that middlemen after middlemen spring up who have no interest in the improvement of the land..... There is a class similarity between the landlords estates in Northern India and the *latifundia* in Italy and Spain. The estates in both cases are owned by great landlords whose sole interest in their property is in their rents. They let to one or more middlemen who make what profit they can during the term of their lease..... Many of the landlords of Bengal.....like those of Italy and Spain are absentees and attend to their property only for the purpose of receiving their rents." (Mukherjee p. 90).

This incessant splitting up and subletting of estates goes on unevenly in one district two or three intermediaries only are common in Eastern Bengal there are commonly seven or eight, and sometimes even as many as fifteen or sixteen. But even within the same district there may be wide variations, and in any case an individual cultivator may hold land in cultivation from landlords in quite different stages or *starta* of the hierarchy of subinfeudation. This in itself is a source of immense confusion and harassment to the illiterate cultivator who is confused by the intricate variety of his holdings and his liabilities; this confusion is not surprising when even trained Settlement Officers are often at a loss to unravel the complexities. On top of this confusion, there is the additional disadvantage that the poor cultivator has to meet the demands for salami and nazarana not from one landlord but from a host of them. It not infrequently happens that a cultivator has been in the past paying rent to one landlord for his group of plots of land; then one day he will suddenly find that above his head a new tenure has been created, but it has been created in such a way that now he has two landlords where before there was one; and although his nominal rent may remain the same, the incidental expenses and the illegal exactions will be probably doubled.

In Western Bengal the fertility of the land is much less and we find, therefore, that there are fewer degrees of subinfeudation. Unlike East Bengal the productivity of the land refuses to maintain a vast chain of intermediaries. Nevertheless, even in West Bengal there are more intermediate landlords than the land can support, with the result that inferior landlord holdings are constantly changing hands. The landlord at the top, the zamindar is an absentee; the landlord below and in immediate contact with the cultivator is continually changing. In such circumstances it is not surprising to find that improvements are rarely if ever made to the land by any of those who receive rents from it. Even on estates where there is no subinfeudation, there is no tendency to improve the land or ameliorate the condition of the peasant, and the landlords have lost touch with their tenants.

It was certainly the intention of the Act of 1885 that the raiyat, in whom the Act attempted to vest certain fixed rights in the land, should be the tiller of the soil, the genuine cultivator. The measures which were devised to prevent the subletting by raiyats failed. As a result, the so-called raiyats have become middlemen and the actual cultivators sub-raiyats without security and little better, in the eyes of the law, than tenants at will. The first step that must be taken if agrarian conditions are to be improved, is to abolish this group of middlemen or to return them to their status as cultivators of the land; it is these men who, because the cultivators below them have virtually no rights, are the most arbitrary and relentless

(7) *Fractionalisation of holdings.*

Very much the same factors as have led to subinfeudation are responsible for the splitting up and fractionalisation of holdings. In the most populous parts of Bengal the conditions of agriculture are such that farming is no longer profitable; yet since the peasant has no other avenue of employment open to him, he needs must cling to his small holding, although, with each generation, it becomes split up into a tinier and less economic fraction. Desperately striving to make both ends meet and to avoid eviction for non-payment of his rents, he sinks well below the subsistence level in spite of having recourse to the money-lender. But eventually, on the verge of starvation and pressed by both moneylender and landlord, he will be driven off the land to seek a living as best he can by cultivating the land of another. But in spite of the fact that this process of expropriation is going on apace, still the average size of holdings is growing smaller; it is only holdings have been reduced to the irreducible minimum in size that the peasant at last allows himself to be driven off. And once the subdivision of holding into his own possession, prefers to let it out again as a fractional holding rather than to effect its amalgamation with other holdings. Exactly as has been the case in other countries of the world, the process of the concentration of land in the lands of a rent-receiving class is accompanied inevitably by the fractionalisation of holdings amongst a cultivating peasantry who are desperately fighting to retain their rights of cultivation. "The decrease in the size of the average holding in India within the last few decades has led to the decrease of the output per man, and sometimes of the total output per unit of land" (Mukherjee, p. 67). And it is equally clear that such decrease in the size of holdings has led a great deterioration in the quality of agriculture; for instance, rotation of crops is impossible, and manuring is less thorough (if it is done at all) when many small peasants do not even possess a pair of oxen.

Professor Mukherjee gives figures for the average size of holdings in two districts, Dinajpur and Midnapore; both these are districts of West Bengal where holdings are not subdivided to the same extent as they are in the East. In the former, the average holding is 3·10 acres; if raiyat holding at fixed rates are excluded the average size is 2·06 acres, whilst the average size for the holdings of under-raiyats is .26 of an acre. In Midnapur the average sizes are still smaller, the largest being that for occupancy raiyats (2·16 acres) and the smallest being that for under-raiyats (.41 of an acre). In the latter district the average value of gross produce per acre is reckoned (before the recent economic crisis) at Rs. 41 or £3. It is, perhaps, sufficient to leave it to the imagination to fill in the details of the story which these figures tell.

Since 1881 the proportion of the population supported by agriculture in Bengal has increased from 53.8 per cent. to 77.3 per cent (in 1921). The lack of alternative employment and the natural increase in population has led to this serious situation. The peasant himself is well aware of the evils of fragmentation; he is driven to it by starvation and the insistent demands of landlords and moneylender. As long as the pace of industrialisation cannot be quickened uneconomic holdings a vast rural unemployment must persist. It is interesting to quote in this connection the views of the Census Officer of Bengal (1931).....  
 "The prospect or even the possibility of so considerable an increase in population (viz., as that suggested by the present rate of increase) .....may lead to an apprehension that the population of Bengal is rapidly approaching numbers which cannot be sustained at any reasonable standard of living upon the means of subsistence which Bengal can produce for long..... It cannot be denied that a large part of the population lives at a very low level of subsistence, and that any increase of population must lead to increased distress unless the potentialities of the province are developed. What is suggested here is that these potentialities are such that pessimism as to the future condition of its population.....is not necessarily justified. Like the rest of India, Bengal is notable for its undeveloped resources and the inefficiency with which such resources as it has are exploited." How can these potentialities be freed? What is it that obstructs their development? These question the Census Officer, naturally, does not attempt to answer. It is sufficient that he has told us that even in 1931 the peasant was starving unnecessarily.

#### (8) Famine.

It is a joke in Bengal that the Government has, by executive order abolished famine and substituted for it when occasion arises "shortage." As a matter of fact behind the quibble of words there is a real and important distinction which it is necessary to understand when meeting the Government claim that their policy has removed the threat of famine. The last big famine was that of 1918-21; since then, we are told, there have been no famines (though there have been shortages and "famine conditions"). Government thought that by increasing the mileage of railways famine would become a thing of the past; but, as Mukerjee points out, "it has now been realised that the improvement of methods of transport has resulted in a growing tendency to the depletion in stock in the more fertile regions and a general disposition to part with food grain which was formerly kept as a reserve against scarcity. Famine Officers have added that another potent factor making for periodic, if not permanent shortage, is the tendency, which is now general for cultivators to rely upon the cultivation of a commercial crop

and to buy their food grain (if it is available and their commercial crop has been sold at a good price) in the open market. Whilst, therefore, railways tend to counteract the more violent repercussions of natural catastrophies and have enabled the Government to store grain and, incidentally, to claim that famines are things of the past, yet the gradual change in the economy of agriculture has worked in the opposite direction and has made "shortage," "scarcity" and "distress" almost annual occurrences in different parts of the country. Whenever, as has happened so often in recent years in Bengal, jute has failed to fetch a good price and at the same time, owing to drought or excessive floods, rice has been scarce and its price has soared, then there has been distress which, to all intents and purposes amounts to famine.

To take only two instances in Bengal in 1934 and 1936 there was a considerable distress. In 1934 the area affected was comparatively small; the distress was not recognised by the Government as being a "famine", nor indeed was it such. Nevertheless, the starving peasant is not interested in quibbling about the terminological definition that is appropriate to his distress. In parts of the district of Mymensingh the early crops had entirely failed; the cultivators, in so far as they cultivated a surplus crop for sale at all, had got prices lower than the average quite inadequate to tide them over until the late crop was ripe. The price of food grains in the district immediately soared and large stores were being withheld from the market by the middlemen in the hope of a further rise as the scarcity spread. Government officers could take no action so long as famine conditions were not declared to exist, except in so far as relief could be given by granting agricultural loans; but such relief is only given to the more prosperous tenants who can supply surety in the form of lands. The result is reported to be that for several weeks cultivators kept themselves alive by eating the leaves of trees. If the criterion of a famine is whether death directly due to starvation occur, then, it may be said, there was no famine, but the unpleasant fact is that the general impoverishment of the peasant and the need for him to grow crops for the market if he is to meet the demand of landlord and usurer, has brought about a state of more or less annual distress which is induced as much by the drop in agricultural prices as the failure of crops.

The "distress" or "scarcity" of 1936 was much more severe and widespread; it affected the whole of western and central Bengal and merited the appointment of a Famine Officer.....although he was not called a Famine Officer, because officially no famine existed. A total area inhabited by 7 million people was affected. Rupees 11½ lakhs was spent in relief and Rs. 36 lakhs in loans; the distress is described in the General Administration Report (1935-36) as being "very serious" ..... "a very acute degree of distress had been reached" before the

local people were "prepared to come to the relief works at the rate of wages prescribed," viz., at the rate of 1½ annas a day.

The study of recent "scarcities" leads us to the conclusion that with the extensive building of railways in India the problem has indeed changed. To-day, the problem is less one of transporting food grains to an affected area than of enabling population that is starving, though not necessarily dying, to obtain food at a price that it can pay..... or if it can pay no price, to set the mechanism of the State working to relieve distress that has not yet been notified as "famine." The problems is less of an actual shortage of food stuffs, as one of supplying grain to a people that is not in a position to purchase grain that has not been grown by the cultivator who grows commercial crops. However that may be, it would not be correct to draw the inference that India actually produces sufficient food grains to make her immune, in the case of emergency, from a major famine. During the last decade the annual average production of food-grains was 83·03 million tons. If we accept the estimate of a recent Assistant Wheat Commissioner as to the requirement per head of the population of grain, viz., between 9 and 10½ chhattaks a day (*N.B.*—the Bombay jail ration is 9 chhattaks) or one-fifth of a ton per head per year, we find that the normal requirement of the population is about 65 million tons of grain per annum. To this figure, according to Professor Mukherjee, it is necessary to add 14 million tons for cattle fodder, 11 million tons for seed, and 6·3 tons for wastage.....a total of 96·3 million tons. Not only is this amount greater by more than 10 million tons than the average production of the whole country, but on top of this we find that an average of nearly 3 million tons per annum is exported from India. We are driven to the conclusion, therefore, that so far from there being an adequate reserve against the calamity of a major famine, India, under the present conditions of agriculture, is not producing enough food grains adequately to support her population.

It may be asked what has this to do with the Permanent Settlement? We repeat that India, still more Bengal, is capable of developing her resources to feed a population even greater than that which it supports, however meagrely, at the present moment. Not only has agriculture in the province failed to utilise the advance of science to increase its productivity, not only have no improvements in the land or in the mode of farming been made, but we actually see that the productivity of the land per acre has decreased with the fragmentation of holdings. Moreover, in Bengal there are still vast areas of culturable waste estimated to be as much as one-fifth of the cultivated area. The reclamation of waste lands is a task that cannot be undertaken without capital; apart from other difficulties, irrigation and drainage schemes are necessary. The landlords, we have seen, have proved themselves unwilling or unable to undertake such a task; they are

content merely to collect their rents. And as for the Government, it would appear that without the incentive of a potential increase in its revenue therefrom, such a task is not likely to be considered feasible. The ability, therefore, of the province to feed itself in the future must depend upon the determination which the whole problem of revising the land tenure system and the rehabilitation of agriculture is tackled.

*(9) Irrigation.*

The importance of irrigation to the agricultural life of India is well known. The Moghul Emperors built and maintained the most extensive and ambitious system of waterways and canals all over Bengal. Bernier, a French traveller in India, in the 17th century describes with admiration the network of canals, stretching from "Rajmahal to the sea" what made Bengal "richer than Egypt." "It produces," he wrote, "amply for its own consumption wheat, vegetables, grains, fowls, ducks and geese. It has immense herds of pigs and flocks of sheep and goats." Western Bengal depends for its winter crop on artificial irrigation; Eastern Bengal depends on irrigation for drainage of the flood waters and for means of communication.

The position to-day is that large areas have gone, or are going, out of cultivation from lack of irrigation and drainage works, or because those which used to exist have been allowed to decay, to become silted up or to be diverted for the use of steam navigation on the big rivers. In the complacent terminology of the Irrigation Department of the Government a large proportion of the rivers and canals of East Bengal are to-day regarded as "dead." What this means to the cultivator may be seen from the Report of a committee that was set up in 1930 to investigate the subject of irrigation in the province. They say, "In every district the *khals* (canals) which carry the internal boat traffic become, from time to time, blocked with silt. Its khals and rivers are the roads and highways of Bengal, and it is impossible to overestimate the importance to the economic life of this part of the province of maintaining them in proper order." As regards the effect of inefficient irrigation on health the Committee writes, "Central Bengal is at present a decadent tract; it is highly malarious and the population is decreasing rapidly, and the land is going out of cultivation. It may be, of course, the case that deterioration has already proceeded so far that it cannot now be checked and that the tract in question is doomed to revert gradually into swamp and jungle." Finally, "as regards the revival or maintenance of minor routes.....practically nothing has been done, with the result that, in some parts of the province at least, channels have become silted up, navigation has become limited to a few months of the year, and crops can be marketed only when the khals rise high enough in the monsoon to make transport possible."

The health of the population, the productivity of the soil, the area under cultivation and the ability of the peasant to market his goods are all being adversely affected by the complete neglect with which the irrigation system has been treated for the last 150 years.

Any improvements that have been made, have been the work of the cultivator, but, not unnaturally such improvements as the re-excavation of network of canals and the clearing of feeder-rivers has been beyond the scope of the individual tenants. In the report of the Irrigation Department Committee referred to above, we find, "those of us who were previously unacquainted with the system of land tenure in Bengal have been much struck with its effect upon projects such as those designed for the improvement of drainage or agriculture. In northern India, Government are always ready to finance projects of this nature since.....they constitute a remunerative investment of the general tax-payer's money..... In Bengal, except in the small areas where Government are the proprietors of the land, they secure no increase of land revenue, either immediate or prospective, from improvements financed by them or effected through their agency, and past experience shows that they are fortunate if they recover for the tax-payers the cost of the work and its maintenance."

In proportion as the zamindars and superior tenure-holders become isolated from the soil and relapse into absenteeism, their incentive to improve the land becomes less. This is only natural, since, like the Government above them, they have nothing to gain from the increased productivity of the land in so far as they have sublet at fixed rates. It is only the tenure-holder immediately above the raiyat who might be in a position to gain by effecting improvements, but he himself, as the process of subinfeudation goes on, is not a "capitalist"; he has little margin of profit and is likely to experience difficulty if he has to go to the Civil Court to get a decree for enhancement of rent on the basis of the improvements he has made. In any case, the improvement and maintenance of irrigation works can only be done, as we have noted, by a landlord who owns an estate covering a comparatively large area. "The zamindar and the higher grade of patni holders have ceased to spend anything for the cleaning of tanks which in consequence have become silted up or choked with vegetation, while the cultivators themselves and the tenure-holders of the lowest grades, whose interest it is to see that the tanks are kept in proper condition, are too poor to do anything unaided." (Mukherjee p. 93). But not only do the landlords fail to clear away the silt and to re-excavate blocked channels and tanks; on the contrary, they often encourage the silting up of these waterways so as to form new fields which they can then lease out to new tenants. A very common form of litigation, both in the criminal and Civil Courts, is where cultivators have attempted to keep open long-established waterways but have been forcibly driven off by the hired

gangsters of the landlords who are preparing to sow a crop in the silted up river bed. The preservation of tanks, canals and rivers was formerly the duty and function of the village community; the zamindars, in taking over the rights of the community, usurped their common privileges and turned them to their own profit.

The neglect of irrigation, water supply and navigation channels is only one aspect, if the most important, of the ossifying effect of the Permanent Settlement upon the condition of agriculture in Bengal. In a less degree the same is true of road and path building, of housing, village sanitation and the provision of anti-malarial measure. To their credit it must be said that a few—all too few wealthy landlords have endowed village schools and dispensaries. How inadequate and how inefficient these endowed institutions are may be seen, for instance, from the reports of the Health Department. On the whole, however, it may be said that the landlords, interested as they are in the land only as a source of rents, have taken even less interest in the mental and physical well-being of their tenants than they have in the improvement of the productivity of the land. This is hardly a matter for surprise in view of the record of the zamindars as a class.

To sum up, the zamindar in the early stages of his history was too pre-occupied with increasing rents by other means and bringing new land into his rent-roll to bother about increasing the productivity (and so the rental value) of the lands under him. Subsequently, he sublets to a series of patnidars and dar-patnidars and as a result lost interest in improving the land of which he was now only a nominal landlord. The new landlords either, as often in West Bengal, only held their leases for a few years with the intention of extracting what they could in as short a time as possible and therefore had no desire to make improvements, or, as is more common in East Bengal, again sublet to a series of smaller landlords under them, who were too poor themselves to invest agricultural capital in land improvements.

#### *(10) Share-cropping.*

Payment of rents in kind is fairly frequent in Bengal. With the change in the form of agricultural economy there arises a desire upon the part of the cultivator to commute such rents for cash rents. Provisions were included in the Tenancy Act of 1885 to ensure that, upon the demand of a tenant, commutation has gone on steadily, although in some districts as much as 15 per cent. to 20 per cent. of holdings are still held upon that basis. The amount of produce payable as rent varies from district to district, but there is no doubt that they constitute a most unfair burden upon the tenant, the value of produce that is handed over being considerably greater than the average of cash

rents. There might have been, however, one thing to be said in favour of this system.....that since under it the landlord stands to profit immediately from an increase in the productivity of the land, there is an incentive to him to make improvements on the land of his tenant. Unfortunately, there is no evidence to show that this faintly probable incentive has been effective.

It is, however, not with the class of tenants proper paying produce rents that we are concerned here. The class of share-croppers known in Bengal most widely as bargadars (also adhairs, bhagehasi, etc.,) are not strictly speaking in the eyes of the law tenants at all. They have no tenure, no permanent right in the land they till, but only a temporary or oral lease. In practice there are cases in which the landlord allows the bargadar to cultivate the same strips of land for several years in succession, but one more often finds that the lease is only made for one year and often not committed to writing. The census report, as we have seen, treats these cultivators as tenants, but legally they are labourers and it will be seen that their status is in fact much more akin to the latter.

Owing to the categories adopted by the census report it is not possible to say the exact extent to which land is cultivated in Bengal by the bargadar; it is certain however not only that the area is extensive but that it is very rapidly on the increase owing to the hold which the moneylender is gaining over agriculture and his preference, when he becomes a landlord, for this mode of cultivation.

It has almost always been the practice for landlords, even absentee landlords, to retain a small portion of land in their own possession (khas lands); these were generally the few plots surrounding the Rajbari, and the produce, from them was meant for the consumption of the numerous household servants and relatives who accumulate upon the estates of these landlords. Under the pre-1938 Tenancy Act when a tenant was evicted and the holding put up for sale the landlord had first option to buy it.....that is to say, instead of having another tenant on it he might "take it into his khas possession." This was frequently being done. Having taken possession of the land, the landlord did not, of course, cease being an absentee and start to be an active cultivator; on the contrary, he proceeded to reinstate on it the very peasant who had recently been evicted, but from now onwards instead of being a cultivating tenant with recognised rights in the land, he works for his master on land in which he has no right or interest. Half of the crop produced goes to the landlord, half is retained by the cultivator. Now it is quite clear that one reason why the landlord does this, is that it provides a very simple way of raising rents without recourse to Courts, for instead of getting a fixed rent which may be

three, four, five or even as much as seven rupees per acre he will be getting half of a crop which may be worth as much as forty rupees per acre. From the beginning of the 1920 onwards, when prices rose phenomenally, landlords rushed to convert their tenancies into share-cropping ones for obvious reasons; but precisely because prices were good the peasant could afford to pay his dues and was not turned off the land so easily. But now when prices have dropped again drastically, the landlord has no difficulty in evicting him, and, even though prices are low, finds it more profitable.

Amongst other reasons encouraging the growth of share-cropping, we may notice the growth of a new type of landlord—the moneylender-cum-landlord. He has made his money by the exploitation of the cultivator and his natural inclination is to invest his earnings in the land; at the same time he is a petty trader in jute or wheat or rice, very often the village grain dealer or he may be interested in transport. In any case the investment of capital in land is more attractive to him under present conditions than investment in industrial concerns. But he is not intending to cultivate the land himself any more than the old fashioned zamindar did. His investment is purely business enterprise, and as likely as not he will be an absentee landlord. But, on the other hand, he will probably be a pushing and go-ahead businessman, not content like so many of the old landlords to sit back and let his estate go to seed whilst the rents come in annually. Now, to a landlord of this type the receipt of produce rents has every advantage; not only is the higher rate well worth the extra trouble of assessing and collecting his half share, but, and this is most important, this new type of landlord is already a trader in grain or jute. It will pay him, therefore, to take as rent the jute or grain grown by his tenants rather than to take cash and then have to buy these raw materials for his business in the open market. In other words he is rationalising his business vertically. Consequently we find that amongst these new landlords it is the usual practice to have their lands cultivated by bargadars. They generally have acquired their lands by buying them in auction sales caused by the eviction of tenants who were their own debtors. Here again the same tenants is often reinstated as bargadar. Some of them have bought tenures direct from some superior landlord, others have acquired occupancy raiyats' rights. But in any case, the rate at which the area under cultivation by bargadars increases is very significant of the change that is overtaking agriculture in Bengal and the new methods adopted by the landlord class as a whole in order to extract for themselves a still greater proportion of the profits during a period when, for a number of reasons, profitability is falling.

As is true of every class of tenant or cultivator, so in the case of a bargadar the exact conditions of his contract vary from district to

district. The proportion in which the crop is shared is almost invariably 50:50, except in the case of some crops like sugarcane. Sometimes, especially in West Bengal, the cultivator only retains one-third of the crop. Except in very rare cases the cultivator provides both manure, plough and oxen. Leases are normally for one year. It is poverty and the intolerable burden of debt and demands for rent upon increasing fragmented holdings that has driven the peasant to accept the status of a bargadar. His condition in that status is unbelievably bad; as a daily wage labourer he would earn considerably more, but the opportunities for selling his labour on the market are few since cultivating owners generally do not till such large farms as need the use of hired labour. There can be no doubt incidentally, that one reason why this mode of cultivation, viz., by bargadars, is popular with landlords is that experience has shown them that it is cheaper than cultivating by means of hired labour. If the ordinary peasant is driven off the land by his inability to meet the charges of cultivation, how much more impossible is it going to be for him to make a living when he returns to cultivate the same plot of land under such iniquitous terms as those given to the bargadar.

The legislation has mistakenly omitted to protect this class of cultivator entirely. An Act of 1928 recognises produce-paying tenants only in so far as they are raiyats or under-raiyats paying a fixed quantity of produce. The ordinary bargadar or adhiar does not come within this category, and, although they provide the ploughs, oxen and seed, yet they have no status as tenants at all. According to Professor Mukherjee, "In some areas such produce-paying cultivators have actually held the same lands through several generations, and both this custom as well as several High Court judgments that bargadars are tenants, have been abrogated by a stroke of the pen." (p. 108). Working as little better than serfs, it is not surprising if the bargadars devote little care to improvement or protection of the land, and undoubtedly the growth of share-cropping is responsible to some extent for the decrease in general productivity of the land which we have already noticed. Driven from their holdings to work as labouring partners, they represent a class of shifting and floating population which is incompatible with the stability necessary for efficient agriculture and presents a grave economic and social problem.

As far as this class is concerned the main object of legislation should be to give back to them a definite legal status. It is clear that the main task is to confer on the vast mass of the peasantry the status of "peasant-owner" and that wherever a cultivator has recently been driven off the land by force of economic pressure and has become a *bargadar*, he should be allowed the option and given the privilege to gain the status.

*(II) Agricultural labourers.*

We have remarked upon the rapid increase in the landless peasantry who earn a precarious livelihood working on the fields of the richer peasants when they are lucky enough to obtain employment at all. The economic causes of this tendency of the rural proletariat to swell are obvious. It is the experience of every agricultural community that without drastic state action to safeguard the rights of the smaller peasant, land accumulates in the hands of the landlord, the middleman and the richer peasant class. Most European countries have already taken steps to check transfers of holdings, to limit subdivision of land, to protect the tenurial rights of the cultivator and to re-establish landless peasantry by the partial expropriation of big landlords. The process, therefore, is not one that is peculiar to a zamindari system as established by the Permanent Settlement. But in so far as the Permanent Settlement has been, as we believe to be demonstrable, responsible for the more rapid economic collapse of agricultural economy than has occurred elsewhere in India, to that extent we can attribute the present dangerous situation to the working of the Act of 1793. But, however, that may be, it is at any rate true that a remedy has to be found and the landless peasant resettled on the land and provision made for keeping him there; and this cannot be done within the permanent system. Since we have used the analogy of foreign countries, it should, perhaps, be noted that on the whole the transfer of land in Bengal from the possession of the cultivator into the hands of another has not meant the building up of larger and larger estates. The tendency since 1793 has been for landlords' estates in most cases to decrease in size; they have been subdivided and cut up in the process of subinfeudation. And although individual landlords, at whatever stage of the hierarchy they may be, have consolidated their position and spread their power, yet on the whole it is the class of innumerable petty landlords who have driven their wedge in between the zamindar and the cultivator and progressively depresses the latter until he can no longer maintain his position on the land. This is a factor that makes the solution of the return of land to the landless in Bengal far more difficult. There are no, or few, large estates to be confiscated or bought up for resetting the landless. The ownership of estates, whether large or small, is not physical ownership, but merely a proprietary right or interest in their rental values. In this sense each acre of land is owned several times over, and the removal of the zamindar does not leave the land free for redistribution without annulling the rights of a host of other landlords.

It is difficult to establish the extent of cultivation by richer peasants through hired labour. Professor Mukherjee maintains (p. 197) that the substantial cultivator is relinquishing the personal cultivation of

his fields and depending more and more on hired labour. He considers this to be an ominous sign, bound sooner or later to be followed by conflict between the higher and lower peasantry as in Germany and Russia. What protective legislation there is tends only, as in Russia, to strengthen the position of the well-to-do peasant. (It may be noted that the recent tenancy legislation in some of the Congress provinces has this tendency). Certainly it must be presumed that the 2 or 3 million landless labourers are not entirely idle and unemployed, otherwise they would be starved to death. But whilst there are undoubtedly a large number of upper peasantry who employ regularly two or three farm hands; and many who take on seasonal labour for the harvest, it would probably be a mistake to believe that there is yet any widespread "capitalist farming" other than through bargadars. In fact on p. 219 Mukherjee seems to hold this view when he says holdings are so small that the cultivation of them is rarely more than can be done by the family of the owner unaided. The greater the pressure upon the land, the more uneconomic the size of the holdings, and the less the tendency to employ hired labour. Undoubtedly a very large proportion of the class designed as landless labourers are at present intermittently employed on road and other constructional works. The general proposition remains true—that the successful peasant who manages to improve his position either sublets his whole holding and becomes a rent receiver, or else sublets just so much of it as he is unable to till himself with the aid of his family. Because the present system places a premium upon petty landlordism, it pays him to do so.

The wages of agricultural workers vary from district to district and from year to year. As there is no legal minimum and the labourers have no bargaining power, wages tend to be driven down lower and lower beneath the subsistence level according as the supply of available labour increases. In the Census Report for 1931 we are given wage levels for the years 1908, 1911, 1916 and 1925; the wages there given varies between 5 and 10 annas a day, but in calculating this figure the Report has included the cash value of certain customary gifts the labourer, in some places, receives in kind. Professor Mukherjee compares the wages of certain selected years with the rise in the price of rice:—

|                        | 1842. | 1852. | 1862. | 1872. | 1911. | 1922. |
|------------------------|-------|-------|-------|-------|-------|-------|
| Wages in annas         | ..    | 1     | 1½    | 2     | 3     | 4     |
| Rice (seers per rupee) | ..    | 49    | 39    | 27·07 | 22·74 | 15    |

According to these figures the staple diet of the Bengalee has increased in price by eightfold, whilst his wages have increased four to six-fold. Even in 1922, therefore, it can be said that real wages had fallen considerably in Bengal; the same is found to be true in other provinces (*e.g.*, Bombay) where detailed investigations have been made.

But up till 1930 Bengal was enjoying a period of comparative rural prosperity. Subsequent to that date, as we have seen, the effects of the world crisis began to be felt and there was a rapid acceleration of the process of decay that was already visible from a comparison of the 1921 and 1931 census figures. The enormous increase in the number of agricultural labourers and the poverty of those tenants who still managed to hang on to their minute holdings, has made it impossible for a vast number of labourers to find employment at all, and those that do so, have to accept a greatly reduced wage. No regular survey of wages all over Bengal has, to our knowledge, been made of recent years. In certain districts of East Bengal labourers were being paid 3 to 4 annas a day in 1934; in 1936, during the "scarcity", it was estimated by officials that 2 annas was approximately the rate of wage that labourers would be receiving if there had been any labour, other than relief works, for them to do.

Various estimates of the amount required for the maintenance of a labourer and his family have been made, but, like all such estimates, they are only of doubtful value. One estimate, made in 1918 and for villages in the Deccan, arrives at the figure of Rs. 34·65 per month for a man, his wife and two children. Another and more recent estimate ("Nutrition in India" by Ackroyd) puts it at Rs. 5 or Rs. 6 per head per month. A ration about half of a maund of rice a month is allowed to convicts in jails; this, of course, is exclusive of the *dal* and vegetable ration. But taking into account the grain ration along for the moment, we find that from 1 to 1½ annas per day (according to the current prices) is necessary per head for the purchase of grain. This takes into account no other necessities of life. It is clear that even if the labourer is so lucky as to secure thirty days of work in the month, which at the best is likely to happen only during the harvest season, he will not earn enough to enjoy as much as a convict in jail.

In some parts of Bengal it is literally true that the agricultural labourer is starving. A statement given in the 1931 census report correlates economic conditions to the fluctuations in crime; it shows a very remarkable increase in crime just as the economic depression set in. The Census Officer tends to minimise the importance of this coincidence; in doing so he contradicts the experience of administrators, including that of James Mill which we have already quoted, that serious crime, such as dacoity, etc., is always prevalent when large numbers of the population are driven off the land and have no lawful means of livelihood.

"They are clad in rags and live in wretched, insufficient cottages along with the livestock of the farm. I have found men, women and children sharing the same thatched hut with buffaloes. A serf the farm hand is, and in ninety-nine cases out of a hundred a serf he must remain. With him, the temptation of higher wages in another village

does not count. Plague, malaria and influenza work their havoc on the population and mostly on him and his class . . . . above all, the precariousness and uncertainty of Indian rainfall, with which economic conditions are so closely and intimately related, are writ large on his forehead, betokening the small comfort of a single meal, this gruel and loin-cloth in a prosperous year and starvation and death in a year of scarcity. Such is the condition of the hired farm-hand in India, who is so often lost sight of . . . . that toiling, unorganized, long-suffering, but all important factor in the machinery of Indian rural life." (Mukherjee p. 239.)

Forced labour and serfdom are not recognized in India, but that is not to say that they do not exist. The status of the bargadar differs very little from that of the serf. Many labourers who are unable to hire themselves out for a wage attach themselves to the landlord who, often out of charity, gives them a meal in return for work done on his land, but by degrees the chance relationship becomes hardened into a custom and the labourer becomes in actual fact the serf of his master, rarely, if ever, receiving cash payment for his services; he is often, quite literally, a slave. Debt slavery is less common in Bengal than in other parts of India where there are large aboriginal populations. But even in Bengal it is found. As an example of the inability, or unwillingness, of the Government to stamp it out, we may quote a report, dated 18th September 1937, issued by the Press Officer of the Government of Bengal; the object of the communiqué was to impress the public with the good work being done by the Government's scheme of "Debt Settlement." It reads: "What is a debtor to do when he has a large number of able-bodied youths in his family but not sufficient land to keep them employed? Of such a case we hear from Rangpur where the creditor has given some of his own land to the debtor to cultivate and the entire crop is to be delivered to the creditor; the half value of the crop liquidates the adjusted debt (the other half is rent), while as an additional benefit (*sic*) the debtor secures occupation for his whole family." A Government which encourages settlement of debt along these lines is embarking upon a perilous course. But the case so long ingenuously cited by the Press Officer is not, as he thinks, a brilliantly new solution of an old problem; it is a practice that is known to every villager in Bengal. In a period of comparative prosperity the moneylender, who is very often the landlord also, finds little difficulty in collecting his interest or persuading the cultivator to incur new debts on the security of his lands whose value will be high. But in a period of economic distress, the moneylender cannot collect his dues and the value of the security has dropped enormously. What is the creditor to do? He may not even be able to sell the holding of his debtor at a price that will cover the debt; he knows that he cannot recover interest or capital from the debtor. The only thing that he can recover from him is his labour, either as a bargadar or as a

farm-hand. That is how debts are "settled" daily in Bengal without the elaborate procedure that the Press Officer is at pains to advertise.

But there still exists, also, a remnant of simple feudal serfdom. On many estates the tenant is still expected to cultivate the land of his landlord for a few days in the year, and, of course, these few days will coincide with the harvest or sowing season or just when the peasant can most ill-afford to leave the cultivation of his own land.

### *(12) Debt.*

No account of the conditions of the cultivator would be complete without a reference to indebtedness and the power which the money-lender has over the peasantry. From our point of view the important aspect is the extent to which he has used the framework of the Permanent Settlement to strangle the peasantry. No class flourishes so impudently as this class, and it often seems as though the land laws were especially devised to enable them to prey upon the peasant. Laws against usury exist; but they are not operated. A rate of 150 per cent. or more is frequently found to be charged on debts, whilst anything between 30 and 100 per cent. per annum is normal. Unpaid interest is added to the principal, and since moneylenders are always most "accommodating" debts tend to increase year by year until the debtor is completely in the power of his creditor. The moneylender then gains control of the land, and he almost invariably employs the cultivator as a farm-hand (probably without payment of a cash wage) or on a produce sharing basis. Frequently he is the only literate man in the village; he knows the law and exploits his knowledge to the detriment of the peasant debtor. His account books, such as they are, are intelligible to himself alone and what he says to be the debt, that according to law it must be accepted to be.

The pressure which the moneylender exerts is the cause of the extreme instability of agriculture in Bengal. Figures collected by Mukherjee show that in Jessore, for instance, mortgages have increased during the last thirty years from 6 lakhs of a value of Rs. 7 lakhs in 1890 to 12 lakhs with a value of Rs. 18 lakhs in 1920, whilst 15 per cent. of the land change hands every ten years. Land transfers by sale have increased by 40 per cent. In the same district in 1926 80 per cent. of the population were found to be in debt, whilst the average debt is reckoned to be between Rs. 150 and Rs. 175. (Provincial Banking Committee Report, 1929-30).

### *Our Demands.*

The rent which a peasant has to pay, is, unlike the income-tax of a businessman, independent of the profit he earns, or even of the value of his produce.

*Table I (All-Bengal).*

| Year.             | Total value of<br>9 major crops.<br>(Crores of<br>rupees.) | Total rental.<br>(Crores of<br>rupees.) | Rent as<br>percentage<br>of value. |
|-------------------|--|---|------------------------------------|
| 1929-30 ..        | 188.6  | 15.2                                    | 8.1                                |
| 1936-37 ..        | 134.3  | 17.0                                    | 12.7                               |
| Percentage change | -28.8  | +11.8                                   |                                    |

*Table II (24-Parganas).*

| Year.              | Total gross<br>profit.<br>(Crores of<br>rupees.) | Total rental.<br>(Crores of<br>rupees.) | Rent as<br>percentage<br>of profit. |
|--------------------|--|---|-------------------------------------|
| Pre-depression ..  | 8.86   | .955                                    | 10.8                                |
| Post-depression .. | 3.76   | .961                                    | 25.6                                |
| Percentage change  | -57.6  | +0.6                                    | ..                                  |

N. B.—Total profit without deducting rent.

It must be remarked here that the basis of costing on which profits are calculated is by no means standardised. In the case quoted above the cultivators' own labour did not enter the cost!

#### *Cost of Cultivation.*

Mr. Sachse, in his Final Mymensingh Settlement Report (1908-19) estimated the total profit from 16 items of agricultural produce in Mymensingh to be about 12 crores of rupees, while the total value of the produce was Rs. 22 crores. The cost of cultivation, on this basis works out to a little less than 50 per cent. To-day, the figure is bound to be higher, because the prices are no longer the same.

*Table III.*

| Crop.     | Prices in<br>Mymensingh<br>Settlement<br>Report. | Mymensingh<br>prices to-day<br>(average). | Value of<br>crops as<br>calculated in<br>Settlement<br>Report. | Value of<br>crops at to-<br>day's prices.<br>(Lakhs of<br>rupees.) |
|-----------|--|---|--|--|
|           |  |   | Rs. a.   |  |
| Aus       | 4  | 0   | 3.15   | 2.04   |
| Aman      | 8  | 0   | 7.28   | 5.36   |
| Jute      | 0  | 0   | 8.16   | 2.16   |
| Sugarcane | 8  | 8   | 13   | 25   |

The above table shows that the total value of three major crops on the basis of 1937-38 prices is half the total value of the crops 20 years ago.

While the prices depend entirely on the caprices of the market, the cost of cultivation, however, cannot be depressed to any desired level. It would only be fair to assume that the cost of cultivation is to-day higher than 50 per cent.

The Burdwan Kisan Sabha undertook to collect from actual cultivators some basic data as to costs. A sample is submitted.

*Table IV.*

Village Sadya, thana Burdwan.

| Name.                 |    |    | Annual cultivation expenses. | Household expenses. | Value of grain and straw. |
|-----------------------|----|----|------------------------------|---------------------|---------------------------|
|                       |    |    | Rs.                          | Rs.                 | Rs.                       |
| Bijay Kongar          | .. | .. | ..                           | 823                 | 400                       |
| Mrityunjay Kongar     | .. | .. | ..                           | 178                 | 173                       |
| Kumarish Ray          | .. | .. | ..                           | 624                 | 293                       |
| Gokul Sain            | .. | .. | ..                           | 445                 | 266                       |
| Govinda Kongar        | .. | .. | ..                           | 860                 | 490                       |
| Satyapada Kongar      | .. | .. | ..                           | 300                 | 150                       |
| Jibananda Kongar      | .. | .. | ..                           | 60                  | 250                       |
| Debiprasad Dan        | .. | .. | ..                           | 370                 | 162                       |
| Krishna Ch. Kongar    | .. | .. | ..                           | 40                  | 120                       |
| Bholanath Kongar      | .. | .. | ..                           | 70                  | 170                       |
| Tulsidas Kongar       | .. | .. | ..                           | 392                 | 180                       |
| Bholanath Kongar      | .. | .. | ..                           | 55                  | 40                        |
| Jibananda Kongar      | .. | .. | ..                           | 40                  | 65                        |
| Purna Ch. Chandra     | .. | .. | ..                           | 400                 | 465                       |
| Radha Govinda Chandra | .. | .. | ..                           | 76                  | 415                       |
| Total                 | .. | .. | ..                           | 4,733               | 3,486                     |
|                       |    |    |                              |                     | 6,182                     |

The cultivation expenses excluding household expenses work out to 76·5 per cent. of the value of crop. If household expenses are included the aggregate expenses would be 132·8 per cent. of the value of produce.

We have shown later that the average cost per acre of aman paddy amounts to Rs. 23. The value of grain and straw would be about Rs. 35. The cost as a percentage of value would then be 66 per cent.

Even allowing a very conservative estimate of the cost of cultivation being 50 per cent. of the total value, we arrive at the following:—

*Table V.*

| Year.   | Total value of (rice,<br>jute, sugarcane, tobacco,<br>mustard, gram, cotton,<br>linseed, wheat). |     |     | Total profit.<br>Rs.            |
|---------|--|-----|-----|---------------------------------|
|         | Rs.  | Rs. | Rs. |                                 |
| 1936-37 | ..   | ..  | ..  | 134.3 crores.      67.2 crores. |

Taking the total number of peasant earners as 1 crore, the position would be as follows:—

| Value of crop per<br>earner. | Profit per earner. | Rent per earner. | Rent as a percentage<br>of profit. |
|------------------------------|--------------------|------------------|------------------------------------|
| Rs.                          | Rs.                | Rs.              |                                    |
| 134                          | 67                 | 17               | 25.4                               |

In the case of private individuals, earners with an aggregate of less than Rs. 2,000 per year are exempted from income-tax. Peasant earners, however, with an average income of Rs. 134 per year have to pay a tax of Rs. 17. 25.4 per cent. on profits well exceeds the rate paid by an average industrialist.

The conclusion is self-evident. The agriculturist in Bengal is rack-rented.

Is it possible to remove the burden by mere rent reduction? No. We have only to refer to history. Are there no illegal exactions in Bengal because the Bengal Tenancy Act provides against them? There are. The reason is not far to seek. The law gives the landlord and his underlings power to extort rent even when the land cannot yield a taxable surplus. The illegal exactions are a logical conclusion from that lawless law.

Rent must go. In place of rent we must have the agricultural tax. Like the income-tax the agricultural tax must be graded, and like the income-tax, the agricultural tax should only be leviable above a minimum income (net).

*Cost of production of Aman paddy.*

(Cost of Human Labour at 4as. per man-day.)

|                                   | Mr. Sachse. | Director of Agriculture. | Mr. A. C. Lahiri. | Mr. S. P. Bose. |
|-----------------------------------|-------------|--------------------------|-------------------|-----------------|
|                                   | Rs. a.      | Rs. a.                   | Rs. a.            | Rs. a.          |
| <b>Ploughing—</b>                 |             |                          |                   |                 |
| Cost of human labour              | ..          | 3 8                      | ..                | 2 4             |
| Other costs                       | ..          | ..                       | 2 13              | ..              |
| Total cost                        | ..          | 18 0                     | ..                | ..              |
| <b>Sowing and Transplanting—</b>  |             |                          |                   |                 |
| Cost of human labour              | ..          | 2 0                      | ..                | 1 8             |
| <b>Weeding—</b>                   |             |                          |                   |                 |
| Cost of human labour              | ..          | 0 8                      | ..                | 1 8             |
| Other costs                       | ..          | ..                       | 1 8               | ..              |
| <b>Harvesting—</b>                |             |                          |                   |                 |
| Cost of human labour              | ..          | 2 4                      | ..                | 2 12            |
| Other costs                       | ..          | ..                       | 3 6               | ..              |
| <b>Threshing—</b>                 |             |                          |                   |                 |
| Cost of human labour              | ..          | ..                       | ..                | 1 0             |
| Other costs                       | ..          | ..                       | 0 12              | ..              |
| <b>Preparation for marketing—</b> |             |                          |                   |                 |
| Other costs                       | ..          | 4 8                      | ..                | 2 4             |
| <b>Cartage—</b>                   |             |                          |                   |                 |
| Other costs                       | ..          | ..                       | 2 4               | ..              |
| <b>Total cost of human labour</b> | ..          | 8 4                      | ..                | 9 0             |
| Cost of seed                      | ..          | 1 8                      | ..                | 0 9             |
| Cost of manure                    | ..          | ..                       | ..                | 2 0             |
| Total bullock power               | ..          | ..                       | ..                | 11 9            |
| Implement charges ..              | ..          | ..                       | ..                | 0 8             |
| <b>Total cost</b>                 | ..          | 24 0                     | ..                | 23 10           |

\*Rai Bahadur A. C. Lahiri's estimate excludes the cultivator's own labour. Adding the Director of Agriculture's Rs. 8.4 for cost of labour we arrive at a more uniform figure of Rs. 21.3.

*Total cost per acre.*

|  | Rs. a.   |
|--|----------|
| F. A. Sachse—Final Mymensingh Settlement Report (1908-19)  | .. 24 0  |
| A. C. Lahiri—Final 24-Parganas Settlement Report (1924-33) | .. 21 3  |
| S. P. Bose—Indian Journal of Statistics, Volume 2, Part 2  | .. 23 10 |
| W. H. Thompson—Final Tippera Settlement Report (1915-19)   | .. 22 0  |

Certain authorities hold that uneconomic holdings (below 3 acres) should be exempted from tax. But we demand that the basis of taxation should not be the size of land, but the amount of net profit.

The Revenue Department of the Government would look upon this scheme with disfavour because this criterion of taxability would exempt a large class of cultivators. We, on our part, do not think that the problem of raising Rs. 6 crores, say, from an annual profit of Rs. 67 crores is really very great. The cultivators will have to be divided into blocks according to the size of profit, and Rs. 6 crores should be so distributed that the poorest cultivators are exempted, and the richer the peasants the more their rates of tax.

It should be clear from the foregoing that landlordism is incompatible with the abolition of rent. Nor is it conceivable that the landed hierarchy of yesterday used to illegal practices of the worst sort would reform themselves overnight into conscientious tax-gatherers. We must employ radically different methods for the collection of taxes.

#### *Peasant Committees.*

In attacking the problem of tax-collection, we invariably fall into an error. We imagine that if peasants are put in charge of collecting agricultural taxes they would default. From which we conclude that the tax-gatherers must belong to a class inimical to the peasantry—and the just level of taxes would be determined by the haggling of two classes. Such a view finds little support in practice, co-operation is a common feature among the peasants. If the law recognises democratically elected peasant committees and appoints these committees with the functions of gathering taxes and disbursing grants loans, etc., from the State, the whole problem is simply, cheaply and realistically solved.

#### *The Ownership of Land.*

The ownership of land by landlords is clearly incompatible with our scheme above, and so to us inadmissible. The only two alternatives are (*a*) State ownership and (*b*) peasant ownership. The argument in favour of State ownership with annual leases to the peasantry is that it is of advantage from the point of view of centralised land reform. But such a system would be more open to influences of corruption. In view of this danger, and in view also of the opinion of the overwhelming majority of the cultivators themselves, we would advocate the transfer of full rights of property to the individual cultivators.

Would that not make centralised land reform practically impossible of attainment? In our opinion, no. The reasons are as follows:—

The ownership of land by cultivators plus the disappearance of rent, would, it is true, give the cultivator some relief. But really it is no solution to his poverty. The average cultivator has not the money to buy seed. Few indeed of the actual cultivators of the soil possess a complete set of even the present crude equipment of cultivation. Cultivation is carried on by a peculiar co-operative system. A man with a pair of bullocks lends his bullocks to the man with the plough, and borrows the plough from him by turn. What is easier than to collectivise such poor peasants? Land reform would be easier to accomplish in Bengal, without coercing the peasants by law, simply because of the poverty of the peasantry.

#### *Prices.*

It is unfortunate that the terms of reference of the Commission does not include questions other than the land system. A major problem of the Bengal agriculturists is their poverty. If the land system were altered a hundred years ago, this problem, would perhaps be solved. But to-day it is impossible to remove or even reduce substantially the poverty of our peasants without legislation in other directions, such as price fixation.

The sudden collapse of the Bengal peasantry was brought about more than anything else by the precipitate fall of prices in 1929-33. The prices of certain crops fell as follows:—

*Table VII.*

| Crop.     | Percentage fall in<br>prices between 1929-33. |     |        |
|-----------|---|-----|--------|
| Rice      | ...   | ... | ... 68 |
| Jute      | ...   | ... | ... 61 |
| Sugarcane | ...   | ... | ... 44 |

The Bengal peasant has not yet recovered from that crash. Even to-day the crops expressed as percentage of their 1929 prices would be—

*Table VIII.*

| Crop.     | Percentage of 1929<br>prices in 1937-38. |     |        |
|-----------|--|-----|--------|
| Rice      | ...                                      | ... | ... 58 |
| Jute      | ...                                      | ... | ... 66 |
| Sugarcane | ...                                      | ... | ... 41 |

Clearly the prices cannot be left to the mercy of the "laws" of supply and demand, in which the suppliers are helpless and the demandeurs are as powerful as dictators in politics. Law must come to the aid of the weaker.

Prices must be fixed by law. The minimum legal level at which the cultivator is to sell to the first buyer should be calculated on the basis of scientific costing.

Should the first buyer be unwilling to buy enough at the statutory price the unsold stock must be handed over to co-operative warehouses. Money for the crop should be provided by co-operative credit banks, necessarily backed by the Reserve Bank of India.

Of course prices cannot be fixed artificially for any length of time. To keep the prices at an economic level a state-co-ordinated restriction must be initiated. Compensation must be paid to cultivators for temporary loss due to restriction. Restriction must be compulsory, backed by radio propaganda.

#### *Reduction of costs.*

In the case of jute, restriction would improve prices. But in the case of rice, nothing short of provincial autarchy can induce town-dealers to buy Bengal rice at a lower rate of profit in favour of rice from elsewhere. The Kisan Sabha, an all-India organisation is against provincial autarchy. The real solution is to improve productivity, and so decrease the cost of production. A comparison would be illuminating.

*Table IX.*

Yield of rice (quintals per hectare).

| Country.  |    | 27-32. | 1932-33. | 1933-34. | 1934-35. | 1935-36. | 1936-37. |
|-----------|----|--------|----------|----------|----------|----------|----------|
| Bengal .. | .. | 10·5   | 10·8     | 10·0     | 10·0     | 8·6      | 12·2     |
| China ..  | .. | 25·1   | 28·5     | 26·0     | 21·3     | 25·8     | 26·5     |
| Japan ..  | .. | 35·4   | 34·7     | 41·8     | 30·6     | 33·6     | 39·3     |
| U.S.A.    | .. | 22·9   | 24·0     | 23·8     | 24·3     | 24·0     | 25·5     |
| Italy ..  | .. | 47·0   | 48·5     | 51·6     | 50·1     | 53·3     | 50·7     |

Landlordism, which has no economic incentive to improve agriculture cannot be expected to do so.

Table X.

## Rent revision work.

| Year.                         |    |    |    | 1934-35. | 1935-36. | 1936-37. |
|-------------------------------|----|----|----|----------|----------|----------|
|                               |    |    |    | Rs.      | Rs.      | Rs.      |
| <b>Old rent</b>               | .. | .. | .. | ..       | 1,26,695 | 63,946   |
| <b>New rent</b>               | .. | .. | .. | ..       | 1,57,460 | 75,691   |
| <b>Difference</b>             | .. | .. | .. | ..       | 30,765   | 11,744   |
| <b>Landlords' improvement</b> | .. | .. | .. |          |          | 86,231   |

In the case of these rent revisions the landlord's contribution in demanding an enhancement of rent was nil. Even when there is a contribution, its volume as compared to other influences is negligible.

The Permanent Settlement, as is universally admitted, has led to the break up of large estates, and also to fragmentation of cultivators' plots. A reference to the Settlement Reports would show this amply. Any attempt at technical improvement must necessarily imply co-operative, collective agriculture, which is unthinkable under the Permanent Settlement.

## Debt.

An unintelligent handling of the debt problem can do more harm than good. Before the introduction of the present system of Debt Settlements, a state of virtual moratorium prevailed in many parts of the country. Since the debt settlement operations began, managed by petty landlords and moneylenders in most cases, the moratorium has been cancelled.

It is asserted that since the beginning of the debt settlements credit has gradually gone dry. According to our information it has even had worse developments. While a debt was granted on land-mortgage, now even actual sales are fictitiously registered before credit is granted, and the peasant has to work on his own land without having sold it as a landless peasant.

The solution of the problem of debt is impossible without (a) short-term credits for cultivation, and (b) long-term credits for debt repayment. The latter is not easy to procure in the present market. The lines on which solution is expected is (a) issue of short-term credits

by Government agencies, and (b) moratorium of past debts for five years. Cancellation of debts, however, must be granted to those who have paid more than  $1\frac{1}{2}$  times the amount of the principal in interests.

*Question of compensation.*

According to our scheme, about 7 lacs of rent receivers will cease to earn a livelihood from rent and will have to find alternative employment. Should they be paid compensation in cash?

Whether the amount of compensation paid is Rs. 170 crores or Rs. 17 crores, one thing is certain, that the money will simply be eaten up. We are opposed to such false compensations. The real compensation would be a security of finding employment. The scheme for finding employment is also the scheme for the reconstruction of the province.

Large scale irrigation, so necessary to the western Bengal, would mean employment for engineers, builders and overseers.

The building of trunk roads would need engineers, overseers, labourers.

Agricultural marketing would need accountants, and commercial agents.

Sanitation would need doctors, nurses, compounders and assistants.

Compulsory primary education would need a hundred thousand or more teachers.

In fact, there would be a shortage of men to carry out such a scheme. And the initiation of such a scheme, for which money must be found from the land, large industries and banks would be a real compensation to those eking out a difficult existence on an impoverished land.

*Reclamation of Land.*

While in the Central districts land is mostly under the plough, in the western and border eastern districts, land can still be reclaimed. We are against settling individual peasants on such land, as we are of breaking up large estates. Large estates should be collectively transferred to the cultivators. Reclaimed land should be State-owned and worked by agricultural labourers, and serve as the enlarged grounds for the present impoverished Department of Agriculture, where peasants can be shown what model farming means in practice.

**Oral evidence of the representatives of the Bengal Provincial Kisan Sabha, on 22nd March 1939.**

PRESENT ON BEHALF OF THE SABHA :

- (1) Mr. Bankim Mukherji, M.L.A.
- (2) Mr. Rebati Burman.
- (3) Mr. M. A. Rasul.
- (4) Mr. Bhowani Sen.

In reply to the Chairman, Mr. Mukherji said that the Sabha has 50,000 members in the 25 districts of Bengal. Recently an investigation was made in Kishoreganj subdivision to ascertain the proportion of raiyats, under-raiyats and bargadars who are members and it was found that the majority were raiyats and a smaller number were under-raiyats and bargadars. The percentage of well-to-do raiyats and of labourers is small. The tendency for the transfer of occupancy rights to non-agriculturists is increasing. He could not say what is the percentage of raiyats who are merely rent receivers but thought that an idea might be had by a comparison of the census figures of 1921 with those of 1931. He mentioned that in 24-Parganas land valued at 1 crore of rupees had been sold or mortgaged during the last eight years.

The village communities originally had the proprietary right in land. They have now practically disappeared. In the case of a commercial company like the Midnapore Zamindary Company which has purchased land from raiyats, he would say that it had acquired a proprietary right through an illegal Act. The Permanent Settlement took away from the village communities the rights of proprietorship and transferred them to the zamindars.

He explained that the Sabha's reply had described Bengal as being more backward in tenancy legislation than other provinces, having regard to Acts like the Punjab Land Alienation Act which is more progressive than any legislation in Bengal. That Act has certainly restricted the right of transfer and he advocated a similar restriction in Bengal. The grant of unrestricted right of transfer was a mistake. Transfer must be confined to agriculturists: otherwise land may pass into the hands of mahajans and other non-cultivators. There must be restriction until agricultural debt is wiped off. This is estimated to be more than 200 crores.

The Chairman enquired whether it would be possible to prevent subletting if the scheme advocated by the Sabha were to be adopted. Mr. Mukherji replied that the Sabha advocates the abolition of rent

and substitution of a tax. The tendency is now towards industrialization and there is no further chance of profitable subinfeudation. The Chairman suggested that as the average level of raiyati rent is low, there is a considerable margin between that and the economic rent and this leads to subinfeudation. Mr. Mukherji replied that he would be in favour of restricting subletting by providing that any raiyat who sublets will lose his occupancy right and the right would pass to the sub-lessee. He agreed that the land of Bengal is more fertile than that of other provinces. He was not however in a position to say whether the average rent of Bengal is lower than the average of Madras and other provinces. He agreed that the contribution to the State which would be levied under the Sabha's scheme should vary in accordance with the fertility of the land. Good land should pay a higher tax than unfertile land. Land in other provinces is less fertile than in Bengal and during the last 50 years tenants have had to leave for Mauritius and Java to work as coolies. The peasants of Orissa, Bihar and Central Provinces should have revolted 50 years ago. He agreed that the cultivators must have a sufficient area to maintain their families and sufficient security of tenure. He did not however agree with the conception of rent, i.e., that a cultivator should pay so much for the occupation of his land in the same way that under the capitalists' system a shopkeeper pays rent for his shop. He agreed however that land should contribute to the national assets and that there should be an equalisation of the burden of taxation. Income-tax is levied at 9 pies per rupee and in case of large incomes it does not exceed one-eighth of the assesee's income but in the case of agriculturists the rent amounts to 25 per cent. of his income. The limit for assessment of income-tax is Rs. 2,000 but in the case of the proposed agricultural tax, every one should pay something subject to a minimum. He agreed that cultivators should be given a full economic holding but thought that considering the total area under cultivation and the number of the agricultural population it would not be possible to provide economic holdings for everybody. There should therefore be a scheme of industrial development to provide for the surplus population.

In reply to Dr. Mukherji, he said that if holdings are so small and uneconomic that they are unable to pay anything, they might be exempted from tax, as exceptional cases. He would however legislate to prevent uneconomic holdings.

Continuing to the Chairman, he said it would be possible to raise land revenue of 6 crores annually by levying the proposed agricultural tax. This would relieve the peasants by about 50 per cent. of what they are now paying. He calculated 6 crores on the basis of the Commission's figure of 12 crores for the raiyati assets and 17 crores from the cess valuation figure.

As regards the resolution forming the preface to the Sabha's reply, he said that all the bodies mentioned in it had adopted the Sabha's memorandum with the exception of the Bengal Provincial Congress Committee. The resolution was to the effect that the zamindars should be expropriated without compensation. The Congress members only dissented from this. The Sabha's ground for recommending expropriation without compensation is that the zamindars have obtained so much profit out of their estates that they require nothing more. He agreed, however, that as a concession special consideration might be shown in cases of recent purchases of zamindaris at the full market value. Tenureholders should not be compensated in cash: their compensation would consist in receiving employment from the State. He thought that the middle classes would consider it a boon if, in place of their lands, they were given employment. The number of tenureholders depending exclusively on rent was estimated by the Sabha at 7 lakhs. The tenureholders depending partially on rent and partially on other sources of income might be 4 millions but this would also include cultivating tenureholders who would not be expropriated.

In reply to Dr. Mukherji, he said that the Sabha had not drawn up a detailed plan of industrial development or a plan for the employment of the middle class who would be expropriated. This could only be brought into operation after the Sabha's scheme has been adopted.

The Chairman referred to the figures given in the Sabha's reply and said that it would be useful if the Sabha could expand their reply in order to give a fuller picture of conditions in a typical village to show the extent to which cultivators have sold their occupancy rights and are now cultivating as bargadars: the amount of land in their possession, the number of their dependents, etc. Mr. Mukherji replied that the Sabha might undertake such an enquiry during the next two or three months. The Chairman enquired whether it is a practical proposition that landlords and tenureholders should be expropriated without compensation. Mr. Mukherji replied that once the principle of expropriation is accepted, the question becomes a social rather than an economic one. He thought that the Legislature would agree, provided there is at the same time a programme for rural reconstruction and industrial development. Certainly it would be a very big operation which would take some time to carry through. The suggestion, however, for compensating the landlords is less practical than that of the Sabha because a very large sum would be required for compensation. It would undoubtedly be squandered. He agreed that the estimated land revenue out of the Sabha's scheme would be 3 to 4 crores more than the existing land revenue and might not be sufficient to cover the scheme for industrial development. He would not oppose the imposition of further taxes, if necessary. The land revenue system has already broken down but 80 per cent. of the Cabinet are landlords who want to

revive the system. The recent tenancy legislation, he says, was conceived by the landlords themselves and introduced in order to give the landlords a longer lease of life. If the State became the sole landlord, he would be in favour of restricting transfer and subletting in the interest of the tenants generally. He thought this would be justified when the tenants would be free from the landlord's system. He agreed that there has been a general tendency in the tenancy legislation to transfer rights from the landlords to the tenants. If the system goes on, more and more rights will pass to the tenants until the landlords have been completely expropriated and no capital will be left to reconstruct the nation. He agreed also that too much importance has been attached in the tenancy legislation to the occupancy rights rather than to the land. He was in favour of giving proprietary rights to bargadars cultivating on the share system. He was not in favour of large scale farming carried out through hired labour.

In reply to Sir Frederic Sachse, he said that Table IX of the reply shows that the outturn in Bengal is one-third of that obtained in Japan, Italy and other countries. The low yield in Bengal is due to the poor system of cultivation and to the conditions under which the cultivators work; their undernourishment, bad health, the poor condition of their bullocks, etc. There is no proof that rice land has deteriorated in Bengal and that manuring is necessary though this is the general belief. The figures given by the Sabha show that the rice produced in Bengal is not sufficient for the consumption of the entire population. It is not correct that in a normal year most families take two meals a day. Most families have to live on one meal a day and in some places they have no rice for three or four months of the year. In Malda they live on mango during that period.

Sir F. A. Sachse asked whether instead of referring to a precipitate fall of prices since the depression, the correct description would not be that there was a precipitate rise of prices after the war and there has since been a fall. Mr. Mukherji replied that during the war, the prices of crops remained low whereas the prices of piece-goods were extremely high. There was even acute lack of cloth. From 1926 the price of piece-goods fell and that of agricultural produce rose. He agreed that the price of paddy and jute and piece-goods is much the same now as it was before the war. The high prices after the war raised the standard of living very considerably. This was specially the case in Eastern Bengal. Mosques, temples and houses of corrugated iron were built and bicycles and torch-lights were purchased to a phenomenal extent but the result was great investment in land and when prices dropped, the purchasers were hard hit. During the boom period, the middle classes used to complain that they could not often get vegetables and fish in the market.

He did not agree that the price of land would be as much as Rs. 200 an acre nowadays—though there may be exceptions. He would say that the average price to-day is Rs. 20 a bigha. 75 per cent. of the land in Bengal could be purchased at that price. The value of land in Bengal is rather more than 200 crores and the agricultural debt is about the same. It may be true that cultivators have profited by being able to spend as much as 200 crores but it has to be remembered that they have borrowed this money and have to pay a very high rate of interest. They could have repaid their debts during the boom period when the price of jute rose abnormally but there was a great demand for investment in land. People borrowed to buy land and when the prices fell they could not pay their debts. He agreed that they were speculators, but when they wanted to increase their holdings by few bighas and subsequently prices fell, their whole property became involved. The capitalist system dragged them into speculation and it would be wrong to make them responsible for the result. It may be true that a number of tenants sold their lands and made a large profit but at that time the number of landless labourers also increased from 17 to 20 lakhs.

He did not agree that a raiyat could be differentiated from a mill-owner on the ground that the latter has to purchase all his machinery whereas the raiyat can use his land as he likes and receives it from the State. If that were the position there is no reason why a clerk in an office should not pay rent for his chair, because he receives his service from the community.

In reply to the Chairman he agreed that the person who owns land which is one of the principal national assets should pay something for it.

Continuing to Sir F. Sachse he said that he was in favour of State marketing and of fixing a minimum price for rice. It would be necessary to import some rice from Rangoon for consumption. The State would have to make a small profit on this transaction in order to cover the cost of buying and selling.

Burmese rice could be obtained at a cheaper rate than Bengal rice. By buying Burmese rice at a fixed price there would be a profit which would cover the cost of buying the same. Even if there were a loss on the transaction Government would have to contribute the money.

He proposed Rs. 3 a maund as the minimum price for paddy. He was not aware that the Japanese Government had tried to control rice and had spent a large sum without any appreciable result. If that was so, there must have been something wrong with the scheme. [The Chairman mentioned that there is a scheme in England for guaranteeing a fixed price for wheat. This will cost the consumers £6 millions a year.]

The Sabha's case is that land originally belonged to the tillers of the soil and that it does not belong to them now, but ought to belong to them. Pasture land now belongs to the village communities. The Calcutta maidan belongs to the Corporation. The land in the United Service Club belongs to the members. But that is only because it grows grass. If it grew something valuable, the question of property rights would arise. If there is a forest or pasture land between two villages, it should belong to the State and should be distributed between the village communities.

All transfers since the Permanent Settlement have been invalid and unjustifiable. If a man cannot cultivate his entire holding, he should surrender it to the village committee.

In reply to Dr. R. K. Mukherji he agreed that the level of rent in Bengal is the lowest in India. He also agreed that many holdings are uneconomic but did not agree that the land system cannot be held responsible for this. It has transferred rights in lands from one class of landlords to another until it has rested finally on a very poor middle class. Their holdings have become sub-divided through inheritance and their bargadars are settled on scattered plots. In this way fragmentation has developed. From the Permanent Settlement until the Tenancy Act of 1885 a number of landless labourers had cropped up. Since then the tendency to fragmentation has increased. Dr. R. K. Mukherji pointed out that in Madras where Government is the landlord holdings have similarly become uneconomic. Mr. Mukherji replied that the basic rent was fixed two centuries ago since when money has become cheaper. Consequently a margin of profit has developed which has not gone to the raiyats. That is the reason for so much subinfeudation and subdivision. If the Sabha's schemes were adopted economic holdings would have to be created by legislation. "Economic holdings" should be strictly defined. The laws of inheritance would not have to be changed but in a case where three children inherit the property, one of them should cultivate and compensate the other two. Khan Bahadur M. Hussain enquired how one brother could compensate the others unless he had surplus land. Mr. Mukherji replied that the laws of inheritance would have to be changed to that extent.

Cultivators remain idle for roughly six months in the year. This is an evil which springs from the present land revenue system. The margin of profit has led to a great investment in land at the expense of industry. It is a part of the social system that cultivators are partly unoccupied. He recommended that agricultural industries should be developed in the rural areas and that big industries should be developed in the cities. In Bombay the position is different because capital was invested in industry but in Bengal large profits were made from the jute industry and they were re-invested in lands instead of industry.

Over-population is one reason which prevents the development of handicrafts in villages. A tendency towards over-population appears whenever there is a margin of profit. Since the British period there has been prosperity in India in the sense that people have got cheaper manufactured goods.

The basis of the Sabha's view is that the zamindars are not legally entitled to compensation. Compensation should be given out of social consideration and as a concession only.

He thought that it would be possible to stop subletting by legislation. He considered that the employment of bargadars would amount to subletting. He considered a tenant to be the man who invests his capital and takes the risk of profit or loss in cultivation. The bargadar does not invest any capital but only takes a share of the crop. In reply to Khan Bahadur M. Hussain, he said that he would prefer to abolish the bargadar system but if a tenant gave land to a bargadar he would give the first choice to a tenant to cultivate the land, and if he refuses his right would go to the bargadar.

It would take some time to produce a detailed scheme for the development of handicrafts and industry. At present the Sabha has only a rough scheme.

In reply to Khan Bahadur M. Hussain, he said that the Sabha's scheme for the levy of an agricultural tax presupposes the existence of economic holdings. He agreed that 50 per cent. of the holdings are uneconomic. The tax would only be levied on those holdings which could pay: there would be a graded scale. There would be a minimum limit to the tax. The Sabha had not yet fully considered what this would be. He agreed that some tenants have invested capital in the land by purchasing holdings or paying salami for settlement: this is the existing system, but under their scheme agriculture would be a kind of State-controlled industry. The country might not agree to the reshuffling of land in order to effect economic holdings until the antagonism between them and the State disappears. Once they know that the State is their own, they would not object. In the case of brothers one of whom cultivates and supports the others, no compensation would be given in cash but employment would be provided for the non-cultivating brothers. People who leave their land and take employment elsewhere virtually give up their interest in the land. He would propose that their legal shares should be abolished. The cultivator is not concerned with his legal share in a holding but with his rights. People might not agree to the scheme of consolidation now because at present there is no surety of employment elsewhere and because the peasants are not educated up to the scheme. But the Sabha could within six months change the outlook of the peasants by propaganda.

He agreed that a bargadar who supplies seed, cattle and plough, finances agriculture, and thought that if the Sabha's scheme was explained to the middle classes they might agree to give rights to the bargadars. At present they would not do so.

The incidence of rent is high with reference to the income of the tenants. The Khas Mahal rents are higher than those in the permanently settled area. His enquiries among tenants in areas close to Khas Mahals revealed that the tenant would prefer not to come under the Khas Mahals. The Sabha's scheme of State landlordism would be better than Khas Mahal management because it would abolish the rental system. There would be a fixed minimum and a sliding scale of tax for everybody, including agriculturists and non-agriculturists. In addition to a fixed minimum there would be unemployment insurance. Tenants who cannot grow enough rice for their own subsistence would have to purchase it from the State. This they could do from the profits derived from the sale of jute. Khan Bahadur M. Hussain pointed out that only 7 per cent. of the cultivated area is under jute whereas 70 per cent. grows paddy. Mr. Mukherji replied that the problem must be regarded as a whole. If the Sabha's scheme could be put into operation the remaining requirements would follow as soon as the State fixed the price of rice. The State would be forced to feed the cultivator who could not produce enough for their own sustenance. Khan Bahadur M. Hussain objected that the cultivators would have to sell at a lower price and re-purchase at a higher price. Mr. Mukherji concurred but he did not agree that as many as 80 per cent. of the tenants have to purchase rice because they cannot grow sufficient for their own consumption. Ordinarily, cultivators have to incur debts for agricultural purposes and owing to the lack of adequate credit many of them have had to sell their land.

The zamindars have realized large sums by way of salami. If the total sum realized could be calculated it would provide a strong argument for paying no compensation to the landlords. Had there been no salami, land would not have passed so rapidly into the hands of non-agriculturists.

In reply to Khan Bahadur A. Momin, he said that the Sabha has asked all their district officers to obtain the views of cultivators on their proposals. The idea contained in their memorandum originated from the Sabha, it was then referred to the peasants and the changes made by them were incorporated in the reply. Khan Bahadur A. Momin asked whether the statement that the Punjab Land Alienation Act is more progressive means that the Sabha does not approve of the legislation in the Bengal Tenancy Act for alienation from 1885 onwards. Mr. Mukherji replied that they want to have it both ways, i.e., they want to give the right of transfer and at the same time to restrict it. Raiyats were not proprietors of the soil as individuals but as village

communities. He did not agree that the Sabha's proposal was to put all land into the melting pot, but said that the State would only take over those holdings which are uneconomic. He could not say whether cultivators generally would approve of this scheme. He would only take away the lands of non-agriculturists which might amount to 20 per cent. Of the remaining 80 per cent. one-half might consist of uneconomic holdings.

There are large areas of khas lands in the possession of landlords, tenureholders and mahajans. He would be in favour of taking away the khas lands and giving them to tenants in order to make the area of their holdings economic. He would not however take away the landlords' homesteads.

He could not say whether a bill to restrict transfers could pass through the legislature: the Sabha's scheme could not be carried out piecemeal and transfer would have to be considered as a part of the whole scheme. His scheme for cultivation by one member of the family amounts to something like the "preferred heir". He agreed that to introduce the system it would be necessary to change the existing mentality which demands equal division of property through inheritance. The agricultural industries which he would propose to develop are sugar, oil and husking of paddy by dhenki. When the price of paddy is fixed under the Sabha's scheme, exports and imports would be controlled. He agreed however that it would be better to stop imports.

In reply to Khan Bahadur Hashem Ali Khan, he said that the Permanent Settlement was an illegal transaction in the sense that the raiyats were not a party to it. The East India Company was looking into its own commercial interests and wanted to create, for political reasons, a class of landlords who would be subordinate to it. The landlords cannot demand any compensation as a right. The case is the same with non-agricultural tenureholders. The Permanent Settlement led to a system of subinfeudation below the zamindars and below the tenureholders but the actual reclamation of the land was carried out by the tenants, particularly in char and jungle lands. They had to pay rent for years without getting any yield.

He agreed that many estates have been purchased by foreigners and that half of the present zamindars are non-Bengalees, e.g., the Tagore family. He agreed that the 1938 Tenancy Amendment Act provides that usufructuary mortgages will be redeemed after a period of 15 years and that this provision of law is not illegal. Applying the same principle to the zamindars he agreed that after they have been in possession of their estates for 15 years they are not entitled to any compensation. When the Amended Act of 1938 was passed there was some objection from the upper class peasants and moneylenders but none from the zamindars. There might be a rule that 15 years' possession by zamindars and tenureholders would debar them from receiving

compensation. He agreed that in every village there are large areas of lands in the khas possession of talukdars and mahajans. Their lands could be given to the poor tenants in order to make the area of their holdings economic. Sir F. Sachse pointed out that these khas lands are already cultivated by bargadars and could not be given as suggested without infringing on the bargadars' rights.

Continuing to Khan Bahadur Hashem Ali Khan, Mr. Mukherji said he was in favour of prescribing a minimum area for holdings but he would not prescribe a maximum area. The maximum limit might prevent large scale farming. The Sabha agrees with the views of Professor Radha Kamal Mukherji as regards the size of an economic holding, viz., 8 acres. The condition of the peasantry is such that time has come for drastic measures of a revolutionary nature. The price of land is still falling and there are now no purchasers of zamindaries: even in revenue sales there are few bidders and not more than 2½ to 5 times the net profit is offered.

Under a national Government the peasantry would not grudge paying higher rents if they get a return in other ways. The price of jute will have to be fixed immediately. It is not certain that the price of rice would automatically rise along with the rise in the price of jute. He would therefore also fix the price of rice. The production of rice in Bengal is 25 lakhs of maunds below the amount required for consumption and therefore import is necessary. Even when one meal a day is taken there is this shortage and with two meals a day the shortage would be even greater.

Khan Bahadur A. Momin enquired why under these circumstances Bengal exports rice. Mr. Mukherji replied that the export, although small, should be stopped.

The practice of levying abwabs continues everywhere. Mr. Mukherji mentioned the case of an old cultivator in Howrah who had told him that he was always in arrears of rent and it was better to oblige the landlord by paying something extra in order to prevent a rent suit. Another case was mentioned of a cultivator in Kishoreganj who had enquired if there was any law to prevent the payment of abwabs and had asked for advice whether he should pay.

He thought that large scale industries have been developed mainly by Europeans. Some Marwaris have taken part in the industrial development but most of them are speculators. Some Bengalees also have taken to industry. Commercial concerns pay income-tax but the zamindars pay very little income-tax because they are assessed only on their non-agricultural lands.

In reply to a question put by the Chairman on behalf of the Maharajadhiraja Bahadur of Burdwan, he agreed that the question of

paying compensation to Waqf estates involves a social question which deserves consideration. In order to carry out the collective scheme of agriculture which the Sabha recommends, he would be prepared to alter the laws of inheritance.

Mr. B. K. Roy Chowdhury said that he was not prepared to ask any question until he understood the Sabha's point of view more fully.

In reply to the Secretary, he said that proprietary rights had not vested in the raiyats as individuals but in the village communities and these communities continued up till the time of the Permanent Settlement. He did not altogether agree that it would be necessary to revise the record-of-rights in order to carry out the Sabha's scheme of redistribution of land in the case of uneconomic holdings. He thought that the record is sufficiently up-to-date and that the work would be carried out by village committees. Any difficulties that arose would be settled by the village committees. These committees would be responsible for collecting agricultural tax. In case of non-payment, they would be empowered to distrain the crops. He did not agree that the tenants have derived any profit from the cheapening of money and from the fact that paddy is now worth four times its value at the Permanent Settlement. There has been more exactions from the raiyats.

The Chairman enquired whether there has been a tendency on the part of the Sabha's organization to encourage non-payment of rent. Mr. Mukherji replied that it is all a bogey. The Sabha, if its scheme is put into effect, would use all its influence to see that the State demand is punctually paid.

### **Reply by the Dacca District Muslim Federation.**

**Q. 1.** The description is not exhaustive because apparently the intention was to ensure a permanent revenue payable to Government.

The Permanent Settlement took away some valuable rights of the tenants, e.g., for the default of zamindars their tenures are annulled. The zamindars have been empowered to assess the lands, tanks and fisheries, etc., which had hitherto been used free of rent by the tenants for their general good.

**Q. 2.** Yes.

**Q. 3.** Practically negligible. Yes.

The zamindars have played practically no part in the economic development of the country since the Permanent Settlement. They have signally failed to perform the functions expected of them. The reason is simply this that the zamindars made large profits and they naturally became luxurious and had no pecuniary necessity to undertake any enterprise whatsoever for the improvement of the cultivation and eventually the economic conditions of the country.

**Q. 4.** The zamindars were made the actual proprietors of the soil by the Permanent Settlement. Ere this they were not the actual proprietors of the soil.

**Q. 5.** The so-called pledge given by the East India Company was not actuated by any plausible consideration. Even if there was any consideration, it was not with the consent of the tenants who were only responsible for the cultivation of lands and it can naturally be expected that the tenants ought to derive benefits from the lands. The financial resources of the country have greatly suffered due to that pledge. Greater good to the greater number shall have to be achieved and that can only be done by improving the financial resources of the country.

**Q. 6.** It may be safely said that the zamindars have totally failed to encourage the extension of cultivation. The increase in area brought under cultivation since Permanent Settlement is due to—

- (i) increase in population,
- (ii) enterprise of tenants.

**Q. 7.** About 50 per cent. increase is due to the efforts of the tenants and 50 per cent. is due to the enhancement of rents by the zamindars.

**Q. 8.** No. The zamindars had been selfish. They did not accord justice and equity to their tenants. They have not helped the tenants at the time of their adversity nor have they encouraged the tenants by

extending their arm of help in bringing waste lands under cultivation. They have not instituted irrigation. They have never looked to the health and prosperity of their tenants. They have not cared to give them education. Instead of treating them with moderation, they have been often guilty of exacting abwab and illegal exactions. The cases are not few where the zamindars have illegally enhanced the rents. It may be mentioned in this connection that the zamindars have no justification to enhance rent in any case (unless they laid out money for improvement of cultivation) without proportionately increasing their revenue payable to the Government.

**Q. 9.** (i) Nil.

(ii) Yes.

(iii) If the zamindars had lived in the rural areas, the civic amenities of the areas would have been increased greatly. It would have improved the standard of living there.

Absenteeism is responsible to a great extent. The zamindars generally prefer to live in towns where there are avenues of comforts and therefrom they have no opportunities to appreciate the disadvantages in which the tenants have got to live. Their very presence near the tenants were expected to be an incentive to them. Obviously the zamindars were expected to be better cultured. Hence if the tenants were in close touch with them, they might be in a position to derive benefit therefrom.

**Q. 10.** This Dacca District Muslim Federation do not think that Permanent Settlement proved in the interest for the country—for the greatest good of the largest number. It has resulted in the advantage of the landlords at the expense of the provincial revenue.

**Q. 11.** (i) Yes.

(ii) Yes.

(iii) Yes.

(iv) Yes.

This criticism is justifiable to a great extent.

**Q. 12.** The abolition of Permanent Settlement is desirable on all the above grounds set forth in question 11.

**Q. 13.** Continuance of Permanent Settlement means a loss to the State. This can be removed by total abolition of zamindari system. But in the Dacca District Muslim Federation's opinion temporary settlement will not be helpful in removing the evil. The Dacca District Muslim Federation are not in favour of imposition of a tax on agricultural income.

**Q. 14.** No compensation ought to be given. The other parts of the question, therefore, do not arise. However, a period of not more than five years ought to be given to the zamindars to deliver possession to the State.

**Q. 15.** Does not arise.

**Q. 16.** Socialistic ideas in some form or other will develop.

**Q. 17.** In view of the previous answers, purchase by State cannot be presumed. Raiyats will have to come directly under the Government. Nothing *via media* would suit the purpose. It cannot be said that such a change will lead to a great advantage to the tenants unless necessary legislation is made safeguarding the interests of the raiyats.

**Q. 18.** A new machinery for collection of rent would have to be established. As to costs, it will not be prohibitive.

**Q. 19.** The khas mahal tenants at present cannot be said to enjoy any advantage over the tenants under the proprietors of permanently or temporarily settled estates. In short, the present conditions of the khas mahal tenants are not at all satisfactory and therefore naturally the tenants would not prefer to come under the Government, and pay rent to it direct unless proper legislation is made for the safety of their person and property. This District Muslim Federation are certain that they would prefer when the whole outlook is changed.

**Q. 20.** Yes. The raiyats have been led to the lowest strata of the society, practically to serfdom. They have been economically affected in the way that the intermediate tenureholders have with a motive of making profits left no stone unturned to enhance rents.

**Q. 21.** Same as in answer to question 16.

**Q. 22.** The homesteads and khas lands of the zamindars and tenureholders shall have to be left to them on their agreeing to pay annual rent as may be determined by proper machinery on the valuation of the land alone.

**Q. 23.** The occupancy right in some form or other, whatever the nomenclature might have been, was in existence before the British period.

**Q. 24.** Yes. The "Proprietor" connotes that he is the real owner and is entitled to deal with the property in the manner he desires and the property is heritable and transferable.

**Q. 25.** It will not be beneficial to confine occupancy right to the tenants actually cultivating the soil. In that case, a better class of tenants who are the backbone of the society would be crushed.

**Q. 26.** The question does not arise in view of the answers given to question 25.

**Q. 27.** It does not appear to be so. But occupancy rights ought to be given to non-agricultural tenants as well.

**Q. 46.** Yes, to a certain extent.

**Q. 47.** This Dacca District Muslim Federation do not think they expected it.

**Q. 49.** The rent of the tenants ought to be reduced by proper machinery after taking into consideration the size and quality of the land. It would not be possible to bring them down to the level prevailing at the time of Permanent Settlement as sufficient material is not available for determining the rate of rents and tenants.

**Q. 50.** No.

**Q. 51.** No. Does not arise.

**Q. 56.** No share of crops will be payable.

**Q. 58.** No. Yes.

**Q. 60.** Yes. Yes.

**Q. 61.** Yes.

**Q. 63.** No. Yes.

**Q. 64.** Yes.

**Q. 66.** Yes. Of both.

**Q. 67.** Certainly.

**Q. 68.** Yes.

**Q. 71.** Yes. Due to the fact that the local machinery is not sympathetic towards the tenants and there are not proper rules for carrying out this provision of law.

**Q. 80.** The suggestions will increase the income of raiyats.

**Q. 82.** Yes.

**Q. 84.** Yes. The establishment of Land Mortgage Banks, Rural Agricultural Banks, etc., may stop the annual drain.

**Q. 90.** Yes. The pay of the collecting staff under the zamindars is hopelessly low and these ill paid officers very often adopt dishonest means and exact abwab, etc., for their own subsistence and this Dacca District Muslim Federation think that these are responsible for the strained relationship between the zamindars and the tenants.

**Reply by the Middle Class Peoples' Association,  
Mymensingh.**

**Q. 1.** The description is not exhaustive. The duties and obligations of zamindars were not specifically defined except in the case of payment of revenue and its penalty in case of default.

But the zamindar's obligations to tenants were more in the nature of moral duty rather than legal.

The Permanent Settlement did not take away any rights of the tenants then existing. The rights of the tenants at the time of the promulgation of the Permanent Settlement regulation, were not definite. It appears from the said regulation and previous history that except the mokararidars and Istemardars, there were no other permanent tenants with any fixity of rent. There were no doubt khudkasht raiyats who were not liable to ejection so long as they paid rent, this was however a personal right. The other classes of tenants had no secure rights and were liable to ejection after the expiry of the term of their engagement.

Thus no class of tenants had anything to lose by the Permanent Settlement.

**Q. 2.** Yes. The Permanent Settlement only recognised the common law right of the zamindars to choose their tenants and regulate the usage of the land to the economic interest of the province. (*Vide* section 52, Regulation VIII of 1793.)

**Q. 3.** Since the promulgation of the Permanent Settlement vast tracts of fallow and jungly lands have been brought under cultivation through the efforts of the zamindars. The enormous increase in the raiyatwari-asset from 3 to 12 crores of rupees is an index of the great economic development of the country. If we add to this the assets of the land held by proprietors and tenurholders amounting to 4 crores of rupees, the economic progress thus made certainly rebounds to the credit of the zamindars.

The zamindars were quite up to the expectation as to the performance of their functions as enjoined on them by the Permanent Settlement.

**Q. 4.** Zamindars are the proprietors of the soil from long before the Permanent Settlement, not only from Moghul period but even from the time of Hindu kings. In Bengal especially, the zamindars were almost independent chiefs, their duty to the king was only an allegiance with a payment of revenue. But to all practical purposes they exercised the proprietary right in all its aspects. The provision of

malikana in favour of proprietors whose lands were let out in farm or held khas by the Government, even on account of their not entering into engagement with the Government indicates that zamindars had pre-existing right of proprietorship which the then Government felt bound to recognise. This right to receive malikana still exists though 150 years have elapsed (*vide Regulation VIII of 1793, section 44*). The very word "Zamindar" means proprietor or the owner of the land. It has not been borrowed from any English word.

**Q. 5.** Certainly, the annulment of the Permanent Settlement Regulation would be a breach of a solemn pledge which assured that no Government present or future would ever augment the public assessment on the zamindars in consequence of the improvement of their respective estates. The fact that tenants were no parties, does not in any way minimise the sacred obligation of the Government to respect the solemn pledge, because the tenants had nothing to lose, but rather gained by being brought under a settled system of land revenue, which opened out a possibility for the stabilisation of their rights and status, and which indeed has been justified by subsequent legislations.

The financial resources of the country were not crippled. A secured tenantry, a strong middle class, and an affluent aristocracy emerged out as a result of the Permanent Settlement. This has directly benefited Bengal by raising the taxable capacity of her people.

**Q. 6.** All the three reasons suggested in the question have led to the extension of cultivation, but the initiative came from the zamindars. So the avowed object and expectations of the Permanent Settlement have been fulfilled.

**Q. 7.** The question has been partially answered in answer to Question No. 6. The increase of the assets is largely due to increase in cultivation, which again is mainly due to industry and good management of the zamindars. Enhancement of rent has played a little part.

**Q. 8.** The expectation has been fulfilled. The very fact that large number of big zamindaries, such as Pargana Hossen Shahi bearing a revenue of more than 45 thousand rupees and Pargana Patiladaha of Mymensingh were sold after the Permanent Settlement and similar other zamindaries were also sold at a nominal price shows their moderation even at the expense of losing their estates. The very fact that no other regulation or law was thought necessary till 1859 for the protection of the raiyats in pursuance of a promise held out by the Government in the Permanent Settlement Regulation, tends to show that zamindars acted with moderation. The materials available for the modification of law for the protection of the raiyats were meagre and in order to give certain stable right to the tenants in the matter of occupation and also for putting certain limitation on the landlords to

increase the rents of occupancy raiyats the Act X of 1859 was passed and after that successive legislations only improved their status.

**Q. 9.** Expressedly no duty other than extension of cultivation was imposed on them. And they thoroughly carried out the obligation imposed upon them. Moreover, they have spent large amount of money for public welfare, viz., hospitals, educational institutions, waterworks, public libraries, village tanks and wells, etc.

**Q. 10.** Yes; the greatest good of the largest number has been obtained by the Permanent Settlement and it has led to a stable revenue system with almost no expenditure and removed the frequent assessment and readjustment which was a hardship upon the people in general and the tenants particularly and this was also detrimental to the prosperity of the province and the Permanent Settlement has put a stop to this unnecessary waste of money for collection of public charges.

**Q. 11.** The grounds mentioned in the question are all unwarranted, viz., (1) a bigha of land yielding an income of Rs. 30 a year is assessed in the average at Re. 1-8 rent which is only appropriated by the zamindars.

(2) There has been subinfeudation but it has not been oppressive to anybody.

(3) There has been some enhancement of rent in the permanently-settled area but much less in comparison with enhancement in the temporarily-settled estates and khas mahals of the Government (*vide* statement 16 of the statistics appended to the questionnaire).

(4) The system of overlordship is neither a creation nor a peculiar incident to the Permanent Settlement as we have stated before; the cultivators from before the Moghul period did not pay their rent directly to the Government but there were intermediate interest from time immemorial previous to the Permanent Settlement. Thus the criticism is quite unjustified.

**Q. 12.** No. The abolition of the Permanent Settlement will be a disaster to Bengal. It will work out a complete ruin of about 1/5th of her population without any corresponding benefit to the remaining population.

**Q. 13.** We do not advocate any of the methods included in the question for the abolition of the Permanent Settlement. The argument that 75 per cent. of raiyati assets is lost to the State owing to this Permanent Settlement is not based on any sound reasoning. No doubt there is some difference between the existing raiyati assets and the revenue now payable by the zamindars but this is the fruit of the labour

and good management of the zamindars to which they are absolutely entitled on account of the solemn promise of the then Government at a time when Permanent Settlement was thought beneficial to the peace and prosperity of the country.

(i) The first method, namely, the abolition of the zamindari system involves an unjust encroachment upon private ownership of land which existed long before the Permanent Settlement and was only re-affirmed by the solemn promise of the Government in the Regulation I of 1793.

(ii) The second method, namely, the cancellation of the Permanent Settlement and substitution of the system of temporary settlement will bring back the same state of the country which existed before the Permanent Settlement. It will cause not only harassment to the zamindars but will also be of no benefit to the tenant who will be subjected to constant re-settlement of rent on each occasion of higher demand of the State. Thus it will impoverish the country as a whole.

(iii) It is only another way of abolishing the Permanent Settlement. Augmentation of public revenue should be sought otherwise.

**Q. 14 and 15.** No reply is necessary in view of our reply to question 13. If, however, any such expropriation is made at all, we suggest that the capitalised value of the existing rental should be the basis of compensation.

**Q. 16.** It would disturb the social equilibrium and arrest the distribution of wealth as capital will be severely shy. Investments will be stunned. All sense of confidence and security will be lost. People will refuse to have anything to do in a society where the basic security of law is exposed to the risk of everchanging freaks of legislative mania. It will destroy the whole social structure of Bengal. The zamindari system has been in vogue in this country from long before the Permanent Settlement from the Hindu period, and the whole social structure is based thereon. It will cause ruin to a large number of population and will render the question of unemployment more acute. The middle class people who form the backbone of the society, and take the leading part in all progressive movement, social, political and economic, will be extinct.

**Q. 17.** No. We oppose this on similar grounds as indicated in our answers to questions 13 and 16. It will lead to no advantage, on the other hand, it will cause immense loss to a large section of the people. The raiyat will have to pay rent under a much more stringent system. The extinction of tenures will thus lead to no benefit to them.

**Q. 19.** No. The condition of khas mahal tenants is in no way better than that of those under individual proprietors in settled estates. The rate of rent is higher and the realisation of rent is more rigorous.

**Q. 20.** Tenures and sikmi taluks existed from before the Permanent Settlement, and subinfeudation is not the creation of the Permanent Settlement. But the revenue assessed at the time of the Permanent Settlement being too high for the then assets of the estates, the zamindars, in the earlier part, were forced to create some new under-tenures to facilitate realisation and reclamation of waste land, and thus augment their assets. But this has not done any injury to the raiyat. The labour, capital, initiative and intelligence of the owners of these subordinate interests are responsible for the present prosperity of Bengal. They have helped the zamindars, the tenants and the country as a whole. The social position of a raiyat is not in any way prejudicially affected by the creation of intermediate tenures. Pure zamindars are very few. Big zamindars, Maharajas, Rajas, etc., have themselves many tenures. There is no difference in the status of a raiyat under the zamindari or under a tenure, the rate of rent is also the same.

**Q. 21.** The effect of State-purchase of the tenures and the zamindaris will be equally ruinous to the respective proprietors and to the country in general (*vide* our reply to questions 13 and 16 above).

**Q. 22.** They should be kept rent-free. Homestead lands can easily be ascertained. Khas lands are those which are not leased out to tenants on money rent.

**Q. 23.** The occupancy right of the raiyats is a creation of the British legislation. The zamindar or the tenureholders had the right to choose the tenants. In reclaiming waste lands, it happened every now and often, that tenants found to be incapable of the arduous task were replaced by the worthier ones. In arable lands the tenants' right of occupancy was also unknown except the personal right of khudkasht raiyats.

**Q. 24.** No. *Vide* answer to question 4. From time immemorial when private ownership and individual rights were recognised the zamindars had always been the actual proprietors of land. The Permanent Settlement only recognised that right.

**Q. 25.** No further extension of the present limit is desirable. It should be left to the free will of the contracting parties, viz., the landlords and tenants.

**Q. 26.** In no case we support extension of occupancy right to the test of mere actual cultivation.

**Q. 27.** Yes. The wordings of regulations confirm the above view. Up to Act X of 1859 no such class distinction ever arose in the minds of the legislators. The wordings of section 6 of Act X of 1859 clearly prove the above view. So non-agricultural tenants should be allowed to enjoy the occupancy right which they have been enjoying all along.

**Q. 29.** There is no reliable statistics to prove either increase or decrease of bargadars. Pure bargadars are scarcely found here. The barga is taken by raiyats and under-raiyats from proprietors as well as from other raiyats. There are many instances where proprietors settled in raiyati right on money rent, their khas lands previously cultivated through bargadars.

If there is an increase in the number of bargadars it may be due to various causes—

- (i) increase of cultivable lands;
- (ii) total destruction of rural credit owing to Bengal Agricultural Debtors Act for which, in case of necessity, tenants being unable to borrow, are compelled, to sell their lands;
- (iii) due to abnormal fall in the price of agricultural produce, specially jute, many people who carried on cultivation through servants and hired labourers have been compelled to let out their lands in barga system thus giving some sort of relief and employment to agricultural labour; and
- (iv) acute economic depression.

**Q. 30.** No. (i) and (ii) are quite incorrect. There being no reliable statistics, this question cannot be answered on mere guess.

**Q. 31.** There is no fixed area of barga cultivation. It depends upon the capacity of the cultivator and the lands available for barga cultivation.

Yes. Majority of bargadars have other raiyati and under-raiyati interests. People generally do not engage as bargadars persons who have no lands of their own for difficulties of realisation in cases of non-payment.

**Q. 32-34.** No. If any stable right is given to bargadars non-agriculturists will take to agriculture, thus making the question of agricultural unemployment acuter.

There will be no serious attempt by the joint efforts of landlord and the bargadars to reclaim the waste lands.

Serious disputes will accrue between the two parties.

People will rather keep their land fallow than lose it by engaging bargadars.

When the cadastral survey proceedings of the district of Mymensingh took place in 1915, a large number of bargadars were recorded as occupancy raiyats. But these bargadars could not get any saleable

price for their right; and bargadars generally did not insist upon that right, for the reason, that such conduct could deprive them of the credit of their extending barga cultivation.

The barga system is a sort of partnership for the mutual benefit of the employer and the employee. This mutual benefit is sufficient impetus for retaining that relationship. There is no instance of any oppression on bargadars and so no legislation is necessary for their protection.

The bargadars are agricultural labourers. The common experience is that the honest and laborious bargadar who produce more and thus give higher profit to his employer is sought out. So the best protection for a bargadar is to train him in more profitable cultivation and to raise the price of his agricultural produce.

There is not a single complaint in our experience that the employer extorted greater share of the produce than voluntarily agreed upon by the bargadar.

Any attempt at legislation for betterment of their rights will only lead to the discontinuation of the system, thus causing ruin to many poor agriculturists who earn much as bargadars.

**Q. 35.** The proportion of share depends upon the cost of cultivation in different kinds of produce. This should be left to the parties themselves. Any attempt at legislation to fix the proportion will lead to great hardship on one party or the other.

**Q. 36.** In Mymensingh the wages of daily agricultural labourers varies from 3 as. to 5 as. per diem. Their economic position is worse than that of the bargadars and under-raiyats. The bargadars retain certain amount of profit in addition to the cost of cultivation and their wages are calculated at that rate. That this is so apparent from the fact that there is a great demand for lands for barga cultivation. The daily wage-earners always prefer to be bargadars, if they can anyhow procure two bullocks and a plough.

**Q. 37.** No. *Vide* also our reply to question 30.

There is no reliable statistics allowing extension of barga cultivation on account of the causes enumerated in this question. Extension of barga cultivation, unless at the expense of raiyats, is not in any way prejudicial to the raiyats.

We are not in favour of restricting transfers to agriculturists only. Nor is it practicable. It will lead to the disastrous result of the loss of agricultural rural credit, and will hamper progressive cultivation, and will also cause a fall in the price of land. This condition is wholly unsuitable to a progressive state of society.

The Bengal Tenancy Amendment Act of 1938 is no doubt prejudicial to both the landlords and the tenants. We objected to it but the political agitators dubbing themselves as "Projabandhus" were eager for its introduction. The restriction proposed in this question will not solve the question. Facilities for agricultural loan at a low rate of interest payable in long instalment, measures to raise the price of agricultural produce especially jute, sugar, cotton, etc., low railway freight for transport of agricultural produce in areas where demand is great, re-establishment of rural credit and such other measures will solve the problem by way of ameliorating their condition. And they will thus remove the necessity for frequent transfers.

**Q. 38.** Five acres.

**Q. 39.** Yes.

**Q. 40.** Yes. Consolidation is urgently necessary. This can be done only by suitable legislation. But this consolidation of holdings will be of no avail unless scientific cultivation with the help of improved machines is introduced.

**Q. 41.** Yes. But the superior landlords' rights should not be prejudiced.

**Q. 42.** No. Improved agriculture on scientific basis is possible only in large areas. And this is needed in an agricultural country to increase production. This cannot be done unless large areas come to one hand or at least to one management. The continuation of the primitive state of things of leaving cultivation to ignorant, illiterate and improvident rustics is against the larger interest of the country. For these reasons, stated above, we do not advocate any legislation preventing acquisition of raiyati holdings by one man and its accumulation in one hand.

**Q. 43.** Yes. But this cannot be avoided without interfering with the law of inheritance.

**Q. 44.** Serious question to solve without changing the personal law.

**Q. 45.** No such legislation is desirable.

**Q. 46.** Yes, the wordings of the Regulation I of 1793 show that the only restriction to enhancement of rent was in the case of istemrardars and mokararidars, and the absence of any such restriction in the case of other kinds of tenants shows that good management did not exclude the idea of enhancement of rent. But it was intended that it should be moderate. There were provisions for restrictions on the imposition of abwabs and other illegal cesses and the landlords and the tenants were also asked to enter into definite engagement with regard to rent by execution of patta and kabuliyat.

But the Regulation VIII of 1793 prohibited the cancellation of patta of khudkasht raiyats only. But in the case of other tenants it would be only on terms of definite engagements during the continuation of the particular tenancy. So it was contemplated that the rents of the raiyats would not be fixed in perpetuity.

**Q. 47.** No. The very wordings of the Regulation I of 1793 clearly point out that the zamindars were at liberty to let out the lands excepting the lands of istemrardars and mokararidars, etc., in whatever manner they thought proper. The only restriction was that the engagement should be specific as to the amount and conditions during the term of engagement.

**Q. 48.** In view of our reply to question 47 no reply to this question is necessary.

**Q. 49.** There is no case for reducing the rents of the tenants, either in future, or retrospectively, to the level prevailing at the time of the Permanent Settlement even supposing that it was the intention of the framers of the Permanent Settlement that the rents of the tenants then existing should never be increased. It is not practicable at all. There is no sufficient date for determining what the rates were, and who were the tenants, and what lands they had at the time of the Permanent Settlement. There have been so many amalgamations, divisions and transfers, of which no authentic record has ever been kept, that it is simply impossible to establish any identity of the tenancy existing from the time of the Permanent Settlement with the present tenancies.

We are not aware of any specific grievance which the tenants can have as to the rate of rent in any particular area. If there is any, it can be removed by an appropriate proceeding as provided by the existing law. If on enquiry it is found that the rate of rental in any particular area or tenancy is excessively high and quite disproportionate to the actual produce of the land, judicial remedy may be provided for.

**Q. 50.** No reply is necessary in view of our previous answers.

**Q. 51.** No. Pargana rate is not at all traceable.

**Q. 52.** Fair and equitable rent should be adjusted with reference to the productivity of soil and different rates of rent existing in different areas of the country. The rate of rent as it stands in the country is, more or less, based on custom, though some element of competitive assessment is traceable at present. The acceptance of the principle of market value, or a share of the produce, will simply ruin the tenants as they are. The first principle wants to appropriate the entire unearned increment as rent leaving only a portion of the unearned increment to the tenant, whose due is considered in the

principle, only to be the bare cost of production including, of course, his profits. On the other hand, the principle is based on the marginal productivity theory of land which is quite unsuitable to this country. The tenants have been made to enjoy by successive tenancy legislations, the major portion of unearned increment as incidents to their rights in land. Their rights should, by no means, be curtailed relying on such impractical and unsuitable economic theories.

**Q. 53.** None of the principles suggested in question 52 is followed in assessing rents. In Government estates a good amount of competition plays its part. But in the permanently-settled estates proprietors rely mostly on custom and consideration of the productivity of land in assessing rents. The rents are adjusted according to rate or nirikh based on measurement, they are not lump rentals.

**Q. 54.** No.

**Q. 55.** Even in the case assumed we would recommend that rate of rent should be assessed on the basis of the existing rates taking also into consideration the productivity of land.

No uniformity is possible as lands differ in quality. So no new record-of-rights is necessary though corrections may be necessary.

**Q. 56.** No. We do not accept the principle of rent being based on a share of produce.

**Q. 57.** Rents can never be fixed in perpetuity. It will not be beneficial to the tenants also when the price of agricultural produce goes down to a very low level. Rents should be made alterable only according to the money value of the produce and other conditions as are provided in the Bengal Tenancy Act.

**Q. 58.** It is very doubtful if income-tax will be advantageous. The obligation to pay rent being a general and legal incident to the possession of land has to be paid even by the poorest cultivator. If instead, income-tax with a provision for exempting certain minimum income is introduced it will reduce the finances of the Government into a state of flux and uncertainty. And a large number of cultivators escaping payment will make almost the largest portion of land in the country free from any kind of revenue liability. And this proportion will always increase owing to increasing divisions and subdivisions of tenancies.

**Q. 59.** Greater facilities should be afforded to tenants for reducing their rents for valid reasons. In the present Act there is no provision for tenants to reduce their rents below the prevailing rate of rent. These defects should be removed.

According to the existing provision for enhancing rents on the basis of prevailing rate the present Bengal Tenancy Act is very defective.

The procedure of delegating the duty of finding out the prevailing rate to a Revenue Officer is not only costly but also unsatisfactory.

**Q. 60.** We do not object to enhancement on the ground of fluvial action. Landlords and tenants both have rights and interests in land. If tenants desire benefit by such an act of God landlords also should get a corresponding benefit.

**Q. 61.** We do not.

**Q. 62.** Enhancement should not be refused on this ground. It is impracticable to follow this principle which involves a costly and cumbrous procedure for ascertaining the necessary facts. Further it may make the provision for enhancing rent on the ground of rise in prices almost nugatory.

**Q. 63.** We do not object on principle to this ground of enhancement.

Salami is never paid as advance rent. Salami more or less is paid by way of consideration to landlord for the loss of greater profit which the landlord would have enjoyed if the land was not let out. The payment of salami never carried with it the obligation not to enhance rent unless contracted otherwise. If raiyat's improvement is proved, some allowance should be provided for him.

**Q. 64.** There should be some provision for reducing high contractual rent. But a definite standard should be set on the basis of productivity of land. This principle should also be followed in khas-mahal areas where enhancements are made without any regard to any principle whatsoever to the great detriment of the tenants.

**Q. 71.** Yes.

**Q. 72.**

| Cost per acre. | Yield per acre. |
|----------------|-----------------|
|----------------|-----------------|

Rs.

|           |        |                                  |
|-----------|--------|----------------------------------|
| Jute      | ... 30 | ... 15 maunds at Rs. 5—Rs. 75.   |
| Paddy     | ... 10 | ... 20 maunds at Rs. 2—Rs. 40.   |
| Sugarcane | ... 75 | ... 600 maunds at As. 4—Rs. 150. |

**Q. 73.** Productivity is decreasing owing to the operation of natural law. The reason is, there is neither manuring nor scientific dealing with land.

Government have taken, practically, no steps for improvement of the fertility of the soil.

**Q. 74.** The Acts referred to are almost dead letters in our country.

Poverty of the people is the main reason why they do not take advantage of these laws. The ameliorative measures provided in the Acts, mentioned in the question, are more or less, duties of any enlightened Government.

**Q. 76.** Yes, the Government realises salami in khas mahal lands. It is not utilized in improving the condition of agricultural lands.

**Q. 77.** Land system is, by no means, responsible. Government policy of apathy towards any improvement scheme such as organisation of rural credit, provision of cottage industries, want of industrial policy, lack of provision for adequate and scientific agricultural training, etc., are indirectly responsible for the uneconomic condition of the raiyats.

But the most important reason is over-population and fall in the price of agricultural produce.

**Q. 80.** We support all the measures suggested in the question. In addition to this a minimum price for jute should be fixed. Railway freights on agricultural crops and manures should be reduced to a very great extent.

**Q. 81.** Certainly there is a great pressure of population of land with a resultant poverty. It is very difficult to find out the surplus population.

**Q. 82.** Yes.

**Q. 83.** Government should start State banks by floating State-guaranteed debentures and by encouraging deposits with Government guarantee for the security of the money. This is all the more necessary as people have lost all faith in agricultural credit.

No organisation exists—Government or private.

**Q. 84.** It is absolutely exaggerated. Even before the economic depression this figure could not have been justified and since after the depression, mahajan's share of interest has been almost nil. On the other hand, although mahajans are willing to be satisfied merely with principal, they are not getting even that.

**Q. 85.** Co-operative credit societies have totally failed in tackling the credit problem of agriculturists.

The rate of interest is not, at all, too high.

They sought to benefit the agriculturists who got large and disproportionate advances from the societies but this benefit was not appreciated by them, and the agriculturists failed to maintain the spirit of co-operation which is quite unsuitable to the condition of our people in

their present state of culture. The spirit of non-payment is strong in the case of our agriculturists unless there is similarly strong penal measures to enforce payments.

**Q. 86.** The Debt Settlement Boards have totally failed to deal with the problem. It has altogether uprooted the very foundation of rural credit. Most objectionable and bad as the law is, its working has been still the worse, in the hands of dishonest, uneducated and unscrupulous people. It might be of some good, had it been worked through a judicial machinery, with the aid of lawyers.

Defects are so many that it will not be possible to enumerate them within a small compass. If this law be repealed and suitable and healthy provisions are made in the Bengal Money Lenders Act, and the entire working is done through the judiciary, the purpose of the Act may be served to some extent. But permanent relief to the agriculturist is not possible through these tinkering methods of piecemeal legislations. Permanent and substantial relief can only be possible by improving their financial condition and by advancing loans from the State at low rate of interest, to pay up the mahajans, as was done in the Bhawanagar State. By this method rural credit will resuscitate, confidence will be restored, mahajans getting money, will open up further avenues of employment to agriculturists.

**Q. 87.** Yes.

**Q. 88.** Their work is very meagre. Deposits should be attracted by Government guarantees.

**Q. 89.** The present machinery for realising rents is too costly and cumbrous. It is detrimental both to the interests of the landlords and tenants. Tenants have to bear huge costs which landlords incur. If anything has pre-eminently advanced the economic ruin of the tenants it is the cost of the rent suits. *Ad valorem* court fees should be dispensed with. Process fees should be on the lines of revenue courts and processes should be served through revenue courts. In *ex parte* rent suits no proof of claim should be necessary.

Writ of delivery of possession or its certified copy should be considered as conclusive evidence of possession in a case of criminal trespass and mischief between a landlord and tenant.

**Q. 92.** Revenue Sale Law and Patni Regulations of 1819. Revenue Sale Law should be so amended that a period of grace should be provided for between sale and confirmation of sale during which period proprietors will be entitled to set aside sale by depositing dues.

Procedure for enforcing summarily rent dues in the Patni Regulations may be dispensed with, if landlords are exempted from *ad valorem* court fees.

The Cess Act and the Education Cess Act are causing serious hardship to landlords who have to pay in advance cesses whether they can realise them from their tenants or not. And in coparcenary estates and tenures joint liability is ruinous. Liabilities should be made personal and tenants' dues should be separately realised through union boards.

**Q. 93.** The effect of the 1938 Tenancy Amendment Act is a very serious loss to the landlords without any corresponding gain to the tenants. Tenants sell their lands in time of distress. They cannot dictate price. So they will not get any benefit of the abolition of landlord's transfer fee. The burden upon the landlord for the payment of the road, public works and education cesses, kist by kist, whether they can realise the tenant's share of the cesses or not, has become unbearable. Impediments to realisation of these cesses and even of rent has been put by the Bengal Agricultural Debtors Act, without any corresponding provision for the relief of landlords. The landlords' transfer fee was mitigating the burden to a certain extent. The right of pre-emption which was a substitute for the landlord's right of refusing recognition to undesirable tenants in the case of transfers of occupancy holdings is a serious encroachment upon their proprietary rights in the matter of choice of tenants.

Even in these days of economic distress when transfers were few owing to paucity of purchasers and the price of land fell down to a great extent, the landlords were getting about Rs. 40 lakhs a year. It had the prospect of immense increase at least to 4 times of this figure.

**Reply by the Peoples' Association, Dacca.**

**Q. 5.** The Permanent Settlement shall not be annulled. It is not only a solemn pledge given by the then Government to the zamindars but its long continuance has induced the middle-class intelligentsia to invest their savings in land and annulment of the Permanent Settlement will ruin the middle-class. It cannot be said that the tenants were no parties to the Permanent Settlement because their interests were fully protected by Regulation I of 1793 as the Government reserved to itself the right to legislation for their benefit. Legislation is not contract that all parties affected shall give their consent.

**Q. 12.** No.

**Q. 13.** No.

**Q. 16.** The State purchase of zamindaris will make landless a class of people who contribute to the economic development of the country and impair the social structure of Bengal by disruption of the joint family system. It will evolve a new social order inconsistent with the existing form of Government and shake to its foundation the existing constitutional form of Government. The proletariat will rule and the intelligentsia will obey.

**Q. 19.** No.

**Q. 32.** The right of occupancy shall not be extended to bargadars. The status of bargadar is not uniform in Bengal. Their rights are governed by contract or custom and usage. They enjoy protection when they pay regularly the share of the produce.

**Q. 66.** Yes, it was due to the fault of the Settlement Courts.

**Q. 86.** Debt Settlement Boards cannot be considered to have been able to deal with the problem of agricultural debts and in fact they cannot do it without State-aid to liquidate the debts. The law is full of defects. The Bengal Agricultural Debtors Act should be repealed and Civil Courts may exercise some of the powers by suitable amendments of relevant Acts.

**Q. 89.** Yes, landlords shall have power for restraint of crops for non-payment of rents.

## Reply by the Rajshahi Muhammadan Association.

**Q. 1.** The description is not exhaustive. Yes, the Permanent Settlement took away the existing rights of the tenants and they were placed entirely at the mercy of the zamindars.

**Q. 2.** Permanent Settlement did not convey any such power but the landlords actually exercised the powers of choosing their tenants by harassing them in many ways and regulated the usage of the land according to their sweet will.

**Q. 3.** Landlords have practically played no part in the economic development of the country since the Permanent Settlement. Landlords have failed to perform the functions expected of them at the Permanent Settlement. With a few exceptions they are self-seekers.

**Q. 4.** Yes.

**Q. 5.** Whether the annulment of the Permanent Settlement would be a breach of solemn pledge given by the East India Company to the zamindars would depend on under what circumstances that pledge was given. Bengal is an agricultural country and the actual cultivators of the soil were the actual proprietors of the same in as much as they were and still are the producers of its wealth. The revenue or money paid by them to the Crown or Government through the zamindars was a small fraction of that wealth and it was paid for maintenance of law and order. But the East India Company who were mere traders in the beginning, on the analogy of the English land system, wrongly assumed that the zamindars were the actual proprietors of soil and on that assumption granted them Permanent Settlement. So the annulment of the Permanent Settlement would not be a breach of pledge by the East India Company to the zamindars however solemn that pledge might have been as it was based on a wrong assumption not borne out by fact. Consequently, as by the permanent Regulation the proprietorship of the soil was transferred from the cultivating raiyats to the zamindars and as the raiyats were not parties to the pledge, the Regulation is not valid and maintainable and is voidable at the option of the tenants. Moreover, the Regulation is nothing but a circular and it can be modified or annulled according to the changed circumstances of the country.

The Regulation has crippled the financial resources of the country inasmuch as it has transferred the vast portion of the wealth produced by them to the zamindars who form an insignificant portion of the total population of the country.

**Q. 6. (i)** Yes.

(ii) Yes.

(iii) No.

**Q. 7.** (i) No.

(ii) Yes.

(iii) Yes.

**Q. 10.** It has led to a revenue system which has resulted in the advantage of the landlords at the expense of the tenants.

**Q. 11.** The criticisms are all just.

**Q. 12.** Yes, on all the above grounds.

**Q. 13.** Yes, we advocate the total abolition of the zamindari system inasmuch as by this the State will get sufficient money for nation-building purposes especially improvement of agriculture and if this is done, the unemployment question will be solved to a great deal.

**Q. 14.** Compensation at ten times the net profit and this compensation should amount to a debt due by the State to the zamindars and would be paid in 20 equal instalments without interest. The money-lenders are suffering a good deal by the establishment of Debt Settlement Boards and why not the zamindars should suffer a little for the good of the country?

**Q. 52.** The principle of determining fair and equitable rent would be the value of a definite share of the crops.

**Q. 54.** Yes.



## **Bar Associations.**



### Reply by the Barisal Bar Association.

**Q. 1.** The description is substantially correct though it cannot be said to be exhaustive. There is nothing to show that the tenants who existed from before the Permanent Settlement had any right to enjoy their lands for ever or at fixed rents without liability for ejectment or enhancement. Whatever rights they had, could not be and were not taken away by the Permanent Settlement. The words "generous treatment" in the question seem to be vague. The words of Regulation I of 1793 are "conduct themselves with good faith and moderation" which predicate legal and humane duties also.

**Q. 2.** Yes, they acquired such power by the Permanent Settlement. Even before the Permanent Settlement they used to let out lands and that right was recognised by Regulations 5 and 18 of 1812 which empowered them to let out even in perpetuity.

**Q. 3.** They have largely contributed to economic development by reclaiming and otherwise improving the lands and have not failed in performing their function. It appears from many quinquennial papers that the revenue assessed at the Decennial Settlement was not less than nine-tenths of the gross collection and in some cases nearly the whole of the collection. Whatever improvement the zamindars could make the Government would take the major portion of the profits. Hence there was necessity for frequent investigations and the zamindars were not willing to make large improvements. To do away with this state of things there was the Permanent Settlement. After the Permanent Settlement the zamindars had to borrow money for paying revenue and for reclamation and development of land, often by allowing tenants rent-free and progressive periods and giving advances for reclamation and meeting necessary embankment and irrigation costs. This accounts for the fact that many zamindaris passed out of the hands of the family of the permanent settlement holders within 30 years of the Permanent Settlement. For raising money and facilitating development they required help of others. The Government came to know of it and empowered them to sell and let out (Regulation 8 of 1793) and subsequently very expressly declared their power to let out permanently (Regulations 5 and 18 of 1812). So the zamindars and their tenureholders played their part well and the present improved state of things is due to their efforts. There has been no failure on their part to do their duties.

And further in view of the promise of the Ruling Power the zamindar is to enjoy the fruits exclusively. In case of lack to develop his estate he will get less profit. So the question seems to be irrelevant now.

**Q. 4.** They were actual proprietors before the Permanent Settlement and all controversies regarding their previous status were set at rest by the Permanent Settlement which recognised and declared them to be actual proprietors. It cannot be said that they were mere collectors of rent. They had proprietary right but the revenue payable was variable (*vide* Regulation VIII of 1793) which was made permanent by Regulation I of 1793. The zamindars granted istemrari leases and could sell their zamindaris. In case of default of payment of revenue their estate would be let out in farm and after term of the farming settlement the zamindar would get back the estate. If he had been a collector Government could easily brush him aside.

**Q. 5.** The Permanent Settlement was not only a pledge by the then Government but was a grant of proprietary right for proper consideration by the State which was vested with power of making such grant. There are no legal grounds for revoking this grant in absence of any breach of contract on the part of the grantees. It is not necessary that tenants should be a party to such grant. It was subject to whatever rights the tenants had in the lands. Those rights were not and could not be taken away (*vide* answer to question 1). The number of tenants at the time of the Permanent Settlement was very limited and lands included in the Permanent Settlement were mostly unclaimed and unsettled. The tenants found at present were mostly settled by the zamindars after the Permanent Settlement. As regards its crippling effect on future financial resources we should not lose sight of the fact that after long deliberations it was found absolutely necessary to resort to this measure to get rid of the frequent investigation for revision of land revenue (*vide* question 1), and to ensure its regular and prompt realisation for carrying on the administration. The Permanent Settlement allowed a very small percentage of profit to the zamindars for which most of them were unable to protect their estates from sales under strict provisions of the sunset law.

Even long after the Permanent Settlement large Sundarban tracts have been settled temporarily at concession rates (99 years grant) and also on receipt of large premiums from the highest bidders (40 years grant) for the purpose of reclamation and improvement of waste lands. These measures were adopted for necessities of the State at the time. Can they be now annulled or modified on the ground that the measures had the effect of crippling the financial resources of the State? The State being the absolute owner of all unsettled lands has power to create grants on any terms considered necessary for the time being. Such grants are legal and cannot be set aside except on breach of any express condition reserved in the grants. On the faith of such grants not only large amounts have been spent by the original grantees and

their successors even by borrowing but there have been long series of successive transfers and sales for valuable consideration.

Regulation I of 1793 makes the pledge or promise irrevocable, even the future Government shall not alter the jama. Depending on this promise many zamindars took settlement at an exorbitant revenue and relying on this promise spent lots of money in reclaiming and improving the estate and depending on this promise many persons have taken permanent leases on payment of large amount of salami and many zamindaris have been purchased for large amounts. People have large sums due on mortgage of zamindaris. The head tenure-holder has again sub-let permanently on receipt of salami and so forth. The annulment of the Permanent Settlement will not only be a breach of faith or pledge but will mean the ruin of many persons and families throughout the province. This promise taken with subsequent facts and change of position brings the matter within the realm of estoppel. After the transfer of sovereignty from the East India Company to the British Government there is a solemn declaration of Queen Victoria and King Edward VII for respecting and maintaining the rights of the people in lands. The present Government is bound by the pledge and cannot avoid it after nearly a century and a half. The tenants were not at all necessary parties. The revenue of the mahal is to be assessed. The parties would be owner of the mahal and Government and there would be an agreement between these two only as regards revenue. The tenants were to pay to the zamindars and the zamindars were to pay to the Government. So the tenants were absolutely uninterested in the settlement of revenue to be paid by zamindars to the ruling power.

As regards crippling of revenue it should be considered what was the time when this measure was taken and what was its effect then. At that time it was very necessary to make the Permanent Settlement and the revenue thus obtained enabled sufficiently the sovereign authority to carry on the Government. This revenue has up to this time proved sufficient for carrying on the Government. It was a wise project resorted to by the Governor-General and the Directorate who governed in trust for the Crown at that time and cannot be avoided now by the present Government on any plea whatsoever and the pleas are without any foundation at all. Is the Government prepared to compensate persons who have advanced money amounting to many crores depending on the pledge?

The Permanent Settlement was really a solemn pledge, given to the zamindars, which encouraged them to invest money upon it and when occasion arose the lands so settled to the zamindars came to be purchased at a very high price. In fact about 70 per cent. of the existing proprietors are purchasers from the original settlement-holders and

only 30 per cent. or less are the heirs and descendants of the original holders. It was the permanent right to enjoy the lands at the fixed rate of revenue that encouraged the purchasers to invest their money in the purchase of their zamindaris. If they had occasion to doubt that their right was permanent or that their revenue was liable to increase they would have hesitated in investing their money on it. They might have started business concerns like Jahar Lal Panna Lal, the Whiteaway Laidlaw, the Army & Navy Stores or the Tata Iron Works and the like. Now there is no greater justification in thinking of abolishing the Permanent Settlement than in thinking of confiscating the major portion of the income of the Marwari firms in Calcutta and other concerns referred to above.

**Q. 6.** It is difficult to give figures in absence of accurate statistics but there is no doubt that the zamindars' initiatives and assistance are largely responsible for the increase. This question seems to be rather irrelevant. There was Permanent Settlement at a jama which was not less than the 90 per cent. of the collection. If the zamindar neglected to bring land under cultivation and reclaim waste lands he would be a loser. No other person would suffer by the zamindar's neglect. So whatever might have been the conduct of the zamindars in this respect the Government revenue would not suffer and has not suffered up to the present day. And it was not a condition that unless so much land was cultivated the Permanent Settlement would be annulled. So whatever the zamindars might have done could not and cannot affect the Permanent Settlement. How and by what process the lands under cultivation were brought under cultivation cannot be told now. The causes mentioned are by no means exhaustive. There are other causes.

**Q. 7.** It is difficult to give figures but the increase is largely due to the efforts of zamindars. Tenants have been materially helped by zamindars in reclamation of waste lands. Cess valuation cannot be accepted as correct. The waste lands were reclaimed by the zamindars and settled with the tenants by them. This also contributed to the increase of rent roll.

**Q. 8.** They have not failed in being moderate, equitable and generous towards the tenants. The zamindars' conduct with the tenants was very cordial before, the tenants were treated with kindness and moderation. The zamindars allowed the tenants to keep even many years' rent unpaid. They did not care for limitation and the tenants also looked upon the landlord as "Ma-Bap."

**Q. 9.** This cry is of recent origin, not heard of in the last century. Formerly most cordial relations existed between zamindars and their tenants. The zamindars used to bestow personal attention to all important affairs of management. But when in course of time a single

zamindari or estate devolved on a number of heirs the number of proprietors increased and difficulties began to arise in management resulting in appointment of Managers and Superintendents. In this way there was unavoidable want of touch between tenants and the zamindars and some of the latter began to settle in towns but retaining control over their estates through managers. The managers in most cases have rendered honest and efficient services. It cannot be said that there has been failure or neglect on the part of the zamindars in improving their estates for absenteeism or want of touch.

The zamindars have in many instances established schools and contributed towards the starting and maintenance of waterworks, hospitals and construction of roads and opening out irrigation works and digging khals and constructing bunds and advancing money without interest or at low rate of interest in times of calamity.

**Q. 10.** It was certainly for the good and benefit of the State at the time and hence for benefit of the people and province (*vide* answer to question 5). It may have resulted at present in the advantage of the landlords who have for long suffered losses but this advantage cannot be said to be at the expense of the tenants. There was a limited number of tenants at that time and most of the tenants were subsequently settled by the zamindars. On account of the Permanent Settlement the provincial revenue has largely increased on the heads of stamp, Court-fee, registration, income-tax, excise, export and import. The Permanent Settlement has given rise to the growth of the middle class who represent the culture and intellect of the province and form the backbone of the society. This middle class occupy high post and from amongst them we find best doctors and lawyers, engineers eminent scientists who would do honour to any country. It is this middle class we are in many instances leaders of big business concerns such as share markets and tea industry and they have started banks which have contributed to the economic uplift of the country.

**Q. 11.** This criticism is not justified. The appropriation of a large percentage of income by landlords after long suffering and losses in the beginning is not improper and unreasonable. Subinfeudation was necessary for purpose of reclamation and improvement of lands. It existed from before the Permanent Settlement. As to oppressive overlordship there may be exceptional cases which can be put down by recourse to law. Rent-roll on basis of cess valuation cannot be accepted as correct. It is not clear how 80 per cent. goes to zamindars. The tenure and under-tenure-holders get a large portion of the income from land.

Permanent Settlement has not led to the creation of overlordship. If there is any overlordship it is in consequence of the failure of the

tenant to act upto his promise. That it is not so is apparent from the fact that the Hon'ble Mr. A. K. Fazlul Huq could defeat the Hon'ble Sir Nazimuddin in his own zamindari at the last election to the Bengal Legislative Assembly.

**Q. 12.** No, it cannot be ended.

It will not do any good but cause enormous loss to the people and entail an everlasting calumny on the British Crown and Parliament with whose consent and approval the Royal Proclamation was made.

**Q. 13.** We do not advocate any of these methods.

A bargain which was good and expedient at the beginning cannot and should not be undone after 145 years because it would be better for one party to do so, especially when at expenditure of enormous money and labour, the other party or his representative has made improvements and caused increase in the assets. We do not approve of any of these methods for increasing revenue or making up the loss which is rather imaginary. The first two means are disastrous and ruinous to the people in general and specially to the gentry. Tax on agricultural income tantamounts to abolition of the Permanent Settlement. Any tax on land or its produce, is a violation of and inconsistent with the Permanent Settlement.

In this connection, reference may be made to the agitation at the time of levying road cess and the despatch of the then Secretary of State for India. That will show that the Permanent Settlement was recognised as sacrament. The imposition of primary education cess recently at the rate of five pice in the rupee on incomes from lands makes any further imposition on lands impracticable at the present time. Reduction of expenditure as recommended by the Retrenchment Committee should be adopted. Highest salary should not be more than Rupees five hundred as the Congress decided.

**Q. 14.** If any such exproprietary measure is adopted then reasonable compensation should be paid to the zamindars. At least 20 times the loss of income should be paid. Its amount may be estimated at about 200 crores of rupees. It may be paid by cash or bonds. Provision should be made for payment of costs of buildings, tanks, gardens, etc.

**Q. 15.** It should be redeemable bonds carrying interest not less than 6 per cent. Bonds should be made redeemable by instalments according to financial condition of the State within a period of 50 years.

**Q. 16.** It will create a social revolution. A large number of landholders will have to suffer a great loss and resort to other sources of income. A large number of private officers will be thrown out of

employment. Thousand of families will have to starve. Social structure will be nearly gone. Honour and respectability will be lost. Cordiality and mutual help will be rare. Contract of marital relationship will be difficult. Every one will be equal to his neighbour, however he may be. Those who are respected now because of their proprietorship of lands will lose their position altogether. Communism and socialism will have fast hold and chaos will prevail. Literary and intellectual advancement will be retarded.

**Q. 17.** Yes. If the zamindari interest is purchased, the intermediate interests should also be purchased and raiyats should be directly under the State. This will prevent any future apprehension of conflict between landlords and tenants.

**Q. 18.** Cannot give figures in absence of statistics but very expensive. Collection staff would be necessary.

**Q. 19.** We think most of the raiyats will not prefer to come under the Government. The khas mahal raiyats do not get any mercy or leniency from the officer of Government.

**Q. 20.** It cannot be said that the result of the Permanent Settlement was subinfeudation. The zamindar being unable to reclaim large tracts of jungles was forced to bring in middlemen for the purpose, otherwise reclamations would not have been possible. Large and small capitalistic settlements were considered necessary in reclamations of Sundarbans area (*vide* Purgiter and Ascoli's History of Sundarbans). Intermediate tenures may have some effect in the creation of higher raiyati rates in some places but they have not resulted in uneconomic raiyati holdings.

Subinfeudation existed from before the Permanent Settlement even against the prohibition of the Government as zamindar required money for reclamation, etc., and after the Permanent Settlement also they required money for the same purpose and the Government permitted it. Not more than  $\frac{1}{2}$  of the original zamindari settlement holders, do now own their zamindari. The remaining  $\frac{1}{2}$  of the zamindars are purchasers. They instead of laying their money in industry and enterprises invested their money in lands, i.e., immovable property. No fault can be found with them and they cannot be deprived of their lands. Tenureholders advanced money and helped the raiyats largely in times of need and years of scarcity.

**Q. 21.** There will be a revolution in the country by such purchase as regards social and economic construction and the middle class gentry (tenureholders and zamindars) will be completely ruined and there will practically be complete chaos.

**Q. 22.** The criterion to be followed is lands in actual occupation of the zamindars or tenureholders and lands in occupation of their tenants-at-will will be considered as khas.

**Q. 23.** It seems to be a creation of British legislation.

**Q. 24.** They cannot be said to be actual proprietors except in the sense of having permanent right in the land. Their rent cannot be considered to be a form of tax payable for affording protection to their person and property and for carrying on the administrations. The revenue paid by the zamindars to Government is not only for his protection but also for the protection of his tenants.

Proprietor or full owner really means the person in whom the entire bundle of rights in respect to the land is vested. The holder of a permanent interest is a limited proprietor subject to the rights of his superior landlords in respect of rent, forfeiture, reversion, etc.

**Q. 25.** It should be confined to one grade of tenants, viz., actual cultivating raiyats to avoid the anomaly created by Act of 1929.

**Q. 26.** As soon as they cease to cultivate entire or portion of their holdings they should be considered as converted into middlemen except where the land is let out temporarily.

**Q. 27.** The Permanent Settlement did not intend to protect non-agriculturists whose rights have been regulated by contract as appears from subsequent legislations (Transfer of Property Acts). They have never claimed such right during the long period which has elapsed since the Permanent Settlement. They should not be given occupancy rights now.

**Q. 28.** Landlords have been given some rights under tenancy laws in respect of such conversion and there is no justification for the State interfering with such rights and imposing additional tax on converted lands.

A tenant using the land in a manner inconsistent with the purpose of the tenancy is liable to be ejected, but he can convert a portion of his holding to make a homestead for his own use for the purpose of the tenancy. So long as the tenancy subsists he should not be asked to pay more.

**Q. 29.** Yes, there is an increase on account of the increase of population in the family; the tenants are bound to cultivate other's land for a share of the produce. They cannot get the leases of lands themselves. The khas landholders also do not let out their khas land on a rent for fear of losing it by the tenants acquiring the occupancy right and of not getting rents in time on account of the trend of legislation, as for example, the Bengal Agricultural Debtors Act.

Secondly, the occupancy right having been made transferable, the tenants have lost their holding by voluntary and involuntary sales and have become landless labourers. They for their maintenance cultivate lands on barga system. As we have said before, the legislation of transferability of occupancy holdings proved disastrous to the occupancy raiyats. It has made them spendthrift, ease-loving and lazy.

**Q. 30.** The bargadars never had any right to the lands. They are mere labourers and in lieu of their labour they get a certain share of the produce. If any right were given to the bargadars, the people would have then tilled by paid servants and these men would starve. No right was given to a bargadar for these conditions. If transfer of occupancy right would be restricted only to agriculturists, the price fetched would be low. Many well-to-do agriculturists have purchased many holdings and have reduced the sellers to day-labourers or "gaboors" for cultivation. Occupancy raiyats have sold their holdings for meeting liabilities—this is true of all men. The reasoning involved in the question seems to be beside the mark. Whether the occupancy is sold to an agriculturist or non-agriculturists the seller's position remains the same. He loses his holding. Very few are not agriculturists. A minister of the Government may be an agriculturist so the purchasers are not all non-agriculturists. Many holdings have been sold for arrears of rent.

**Q. 31.** Barga area is not very large. Majority of bargadars have other lands in raiyati and under-raiyati.

**Q. 32.** They should not be given occupancy rights. For their protection share of produce may be restricted from one-third to half according to the value of the produce.

**Q. 33.** If the rent is restricted as above to the produce, it is economically sound.

**Q. 34.** Yes, zamindar's khas lands are let out in barga and if bargadars are allowed occupancy rights they will be kept khas and cultivated by hired labourers.

**Q. 35.** *Vide* answer to question 32.

**Q. 36.** There is no substantial difference between their economic position except that the income of the bargadars is uncertain and subject to risks of agricultural calamities, on the other hand, the hired labourers have to sit idle for want of work.

**Q. 37.** Yes. The provisions regarding transfer in both the amending Acts should be abolished and the old law should be followed.

**Q. 38.** 3 acres.

**Q. 39.** Yes, original economic holdings gradually becoming uneconomic for the causes mentioned.

**Q. 40.** Desirable, if practicable.

**Q. 41.** Desirable if it can be done with the consent of landlords and tenants.

**Q. 42.** To 3 acres for every 5 members of the family of the raiyats.

**Q. 43.** If there is no misunderstanding or differences between the coparceners, it is not detrimental to cultivation, but rather helpful, otherwise when differences arise coparceners may have the holding partitioned. The court in making the division should see that the subdivision may not be uneconomic as in case of partition of joint family property where right is given to bigger sharer to purchase small shares.

**Q. 45.** The question is not clear, no legislation necessary. Present law sufficient.

**Q. 46.** Yes, as subsequent legislation shows the intention of the Government.

**Q. 47.** No, there cannot be any fixity without express provision of law. There is no such provision in Regulation I of 1793. On the other hand, a careful perusal of the Regulation VIII of 1793 shows power of enhancement. Proprietor has right to enhance. Even section 50 (i), Bengal Tenancy Act, shows zamindars' powers to charge rents. The Act X of 1859 providing for enhancement on the ground of rice in prices shows that there was no intention to fix the rent for ever. Section 7 of the Bengal Tenancy Act also supports this view.

**Q. 48.** The rents were not meant to be fixed, so it is unnecessary to consider the grounds mentioned.

**Q. 49.** There cannot be any case for reducing the rents of tenants existing from the time of the Permanent Settlement except on the ground of decrease of the area of the tenancy.

The rent of a raiyat varies for various reasons, e.g., fertility of the land, the future probabilities of the land and proximity of the land to the other lands of the tenancy. There is no sufficient material available at present for determining what was the prevailing rate at the time of the Permanent Settlement or for distinguishing the tenants who are successors-in-interest of those existing from the time of the Permanent Settlement and those who have taken settlement subsequently.

True, the tenants have grievances, but it is difficult to suggest any practical proposal which will cover all or most of the cases. In cases

of tenancies created before or shortly after the Permanent Settlement the rents are rather low; so that those tenants have no grievance. From the end of the last quarter of the past century and from the beginning of the present century price of staple food crops and jute has enormously increased. This had the effect of increasing the rent of the tenants, specially of those tenancies which were created after the commencement of high prices. Relief should be given to these classes by reducing their rental by judicial officers having regard to the price of staple food and other crops and other circumstances. Relief may also be given at the cost of the State by opening and maintaining industries, e.g., pottery works and machinery for production of rubber goods which are not very costly, as provided in Queen's Proclamation.

It is a known fact that a considerable portion of those classes of persons were being maintained by the cotton industry, which had died out under the British rule. If possible, cottage industry should be started.

**Q. 50.** Our view is that rent of the then raiyats was not meant to be unalterable. Hence the question does not arise.

**Q. 51.** No, the zamindars took settlement practically at a loss (1/11th was given them for profit and collection charge) to be recouped by letting out at rates which could be justly obtained in view of demand for land and by extension of cultivation.

**Q. 52.** The present provisions of the Bengal Tenancy Act are sufficient and there is no necessity for any change.

**Q. 53.** The rents are partly based on the above principles according to local conditions. But it is difficult to say to what extent in absence of accurate statistics majority of them cannot be described as lump rents. It is difficult to say to what extent they are fixed on custom, competition and productivity in absence of accurate statistics. It is not true that in practice the rates differ greatly for lands of similar value in almost every village and estate.

**Q. 54.** Solvent tenants can get at lower rate on payment of premiums or advance rent which the poorer cannot afford to pay. It is not a fact that a weaker tenant pays higher rate. Landlords often accept moderate rates in consideration of solvency and honesty of the tenants in the same way as moneylenders allow loans to such debtors at moderate rates of interest. A weaker tenant if honest and reliable is often entitled to similar concessions. Besides the above there is another factor for fixing rate of rent. Zamindars often prefer *bona fide* and honest cultivators even at concession rates and often refuse higher rate offered by undesirable persons.

No re-adjustment of rents on a uniform basis with a view to reduce the present raiyati assets is not possible if compensation is paid by issuing bonds on interest. Existing uneconomic rents may be readjusted and brought to economic scale. That can be done without preparing a new record of rights.

**Q. 56.** One-third to half the produce or its value according to the value of the produce.

**Q. 57.** Should be revised at the interval of 30 years.

**Q. 58.** No advantage. It would be extremely difficult to ascertain such profits and assess the tax. A large number of persons would escape payment and the number of exemptees would gradually increase.

**Q. 59.** There is no definite provision for assessment of tenancies not previously assessed. Power should be given to the Civil Courts for assessing fair rents for unassessed lands to reduce rents for holdings and tenures where it is proved to be uneconomic.

**Q. 60.** No objection. It is not fair that tenant should get the unearned income to the exclusion of his proprietor landlord.

**Q. 61.** This is also an unearned income and landlord should have a share.

**Q. 62.** No reason to exempt them.

**Q. 63.** The question is not understood.

**Q. 64.** There should be no limit of rate of new settlement. There may be provision in Bengal Tenancy Act for reduction of rent when it is proved to be uneconomic.

**Q. 65.** There are no serious defects and present procedure may be justified provided that a sub-clause may be added to section 104H(3) to the effect that a civil suit against an entry of rent settled may lie on the ground that the settlement of rent has been made in gross violation of any principle of law. Experience has shown that revenue officers often make assessment disregarding and misinterpreting the provisions of law and terms of contract between the parties against which no relief is obtainable except by a civil suit.

**Q. 66.** There are such cases but it is difficult to give instances off-hand.

**Q. 67.** Yes. Invariably in all revisional settlements high contract rates (apparently unfair) have been maintained and general raiyati rates increased on the ground of rise in prices. The revenue officer has power to reduce existing rents under section 104A(d), Bengal Tenancy Act, but rarely has this power been exercised. The object is not to give relief to the tenants but to enhance the Government revenue.

**Q. 68.** It is difficult to give instances off-hand.

**Q. 69.** It was certainly a mistake on the part of Government to enhance raiyati rents during depression. This policy has been followed up to 1937 and stopped since inauguration of new Government of India Act. The old policy led to legitimate grievances on the part of the tenants and of the settlement holders.

**Q. 70.** May be due to competition. Increase of population and indiscreet assessment by different revenue officers without any fixed principles.

**Q. 71.** The rules are practically a dead letter regarding permanently-settled areas and rarely acted upon in khas mahals.

Reasons are (1) ignorance and apathy of the zemindars who do not know how to assert their rights and press for legal reliefs; (2) indifference of local authorities in taking necessary troubles and steps which may result in loss of revenue; (3) unwillingness of local officers to report to higher authorities for fear of meeting with refusal. The existing rules should be modified as follows:—

- (1) The condition precedent to opening test works should be deleted;
- (2) Authority should be given to the Collector and the District Judge;
- (3) Remissions should be allowed on the application of the tenant also.

**Q. 72.**

|           | Rs. |     | Mds. |
|-----------|-----|-----|------|
| Jute      | 50  | ... | 20   |
| Aman      | 20  | ... | 18   |
| Sugarcane |     |     |      |

**Q. 73.** Ordinary experience shows char and newly reclaimed lands yield more and fetch higher rents than old culturable lands. Reasons are (1) loss of natural irrigation for silting up of rivers; (2) not giving rest by keeping the lands fallow at reasonable intervals; (3) want of manures; (4) want of deposit of silt under fluvial action. Bengal Government have practically taken no steps for improvement by distribution of manures and improved seeds.

**Q. 74.** Because the initiative is not taken by Government and it is difficult to apportion the benefit and realise tax sometimes from a considerable number of individuals interested in the improvement, and also because the tenants are too poor to pay the additional tax.

**Q. 75.** Much remains to be done to complete the embankment and other improvements but probably for financial difficulties Government has in recent years restricted the expenditure.

**Q. 76.** Salami is realised for about 20 years. No part of it is spent for improvement of land.

**Q. 77.** Outside permanently settled area the uneconomic condition of tenants is mostly due to the over-assessment of temporarily settled mahals. At the time of every revision raiyati rents are increased and high and manifestly unfair contract rates are seldom reduced, care being taken only to the increase of revenue and not to the relief of the tenants. According to the Parliamentary Joint Committee's Report of 1919 there has been legislation in almost all the provinces of India limiting Government revenue to 1/3rd or less of the raiyati assets except in Bengal where the assessment has been left to the discretion of the revenue officers who have been enjoined to follow the revenue policy of the Government of India published in 1902 which lays down (in theory) that progressive moderation is the keynote of the policy of the Government and the standard of 50 per cent. of the assets is one which is almost uniformly observed in practice and is more often departed from on the side of deficiency than of excess and the policy of long-term settlement is gradually being extended. This policy is not followed in case of resumed mahals in respect of which much less than 50 per cent. is allowed to settlement holders for their profits and collection charges and period of settlement is fixed at 15 years. It is humbly suggested that in temporarily settled estates the Government revenue should be limited to less than 50 per cent. of the assets as has been done in other provinces and in future revision rates of raiyati rents should be brought up to economic level by reducing high contract rates and cancelling the enhancement during economic depression.

**Q. 78.** It is difficult to give it in absence of accurate statistics. Their income from other sources is not much. They are illiterate and ignorant and have no saving habits but extravagant in years of bumper crops and incur debts unnecessarily and sometimes foolishly. Many of them are unable to maintain themselves and their families with their income.

Unless their illiteracy is liquidated and they are trained in modern and improved system of agriculture which is their main source of income there is no hope of their economic and social uplift and by training them in home industries, etc. Schools for giving free primary and agricultural education should also be established in every village at Government initiative and cost.

**Q. 79.** The present system is not satisfactory as there is no machinery for bringing it up to date. The United Provinces system may be tried by empowering our village union boards to maintain continuous and accurate record without fresh taxation.

**Q. 80.** Yes, all these four suggestions will certainly help them in increasing income.

**Q. 81.** Ignorance and illiteracy seem to be mainly responsible for their poverty. Pressure of population is also one of the main reasons.

**Q. 82.** This being mainly an agricultural country, agricultural industry is our main support and its scope should never be restricted or interfered with. State-aided factories will remove the unemployment of a large number of non-agriculturists. Surplus agricultural population should, if possible, be provided with agricultural lands from khas mahals or if necessary from reserved Sundarban forests (after keeping sufficient tract for pasture, timbers). If that is not possible then the surplus population may be employed in Government aided and cottage industries.

**Q. 83.** State agricultural credit banks should be established in every union (group of villages) for giving loans to agriculturists at interest of 6 per cent. per annum and accepting deposits at 3 or 4 per cent. per annum. At present there is no efficient Government or private organisation for this purpose. Co-operative rural society is not sufficient. The Bengal Agricultural Debtors' Act should be repealed as it has destroyed the agricultural credit.

**Q. 84.** A considerable percentage (may not be 25 per cent.) goes to mahajans. It can be stopped by establishment of State credit banks (*vide* question 83) which may pay off present agricultural debts by advancing loans at moderate rates of interest.

**Q. 85.** The co-operative societies have succeeded in tackling the credit problems to a very small extent. Their rate is not too high but on account of heavy indebtedness the agriculturists cannot afford to bear it at present and would be benefited by further reduction of the rate. Very small number of societies has succeeded in wiping out the debts of their members. There has not been appreciable benefit to the agriculturists because of their ignorance and illiteracy. They have not been able to appreciate the usefulness of credit societies and have not tried to take advantage from them.

**Q. 86.** Debt Settlement Boards have not been able to deal with the agricultural debt problem as was expected. They have created unrest and complete loss of agricultural credit. There are many and serious defects in the Act and the Boards are manned mostly by half educated and inexperienced ordinary villagers having no judicial or legal experience and not above corruption. The result is that a large number of

non-agriculturists (zamindars, talukdars, teachers, pleaders, doctors, etc.) are unlawfully taking advantage of the Act to delay and defraud their creditors and many credit institutions have been seriously affected. The present Act should be replaced by a new Act empowering Civil Courts to deal with these debts. Arrears of rents should be excluded from the operation of the Act.

**Q. 87.** Yes. See question 83.

**Q. 88.** Land mortgage banks are of recent origin. It is difficult to say how far they will succeed. They should be tried in each district of Bengal as most of the loan companies are in difficulties and long-term loans cannot be obtained at present.

**Q. 89.** The present machinery of Civil Courts for realising rents is costly and dilatory and harassing to both parties. The present law may be modified by curtailing costs of rent suits and shortening the time of disposal.

**Q. 90.** The certificate procedure is highly objectionable and oppressive.

**Q. 91.** Yes. There ought to be a simple modifying Act embodying the main provisions of the old revenue regulations and revenue laws.

**Q. 92.** Revenue Sale Law and Patni Regulations appear to be very harsh and require modifications to mitigate their rigour. Section 11 of the Court of Wards Act should be amended so as not to include persons who are not minors or females and the recent amendment since 1935 should be repealed and Section 95 of the Bengal Tenancy Act should be amended so far as making over to the Court of Wards is concerned for management.

**Q. 93.** The amending Act of 1938 is an exproprietary measure depriving landlords of their just right to transfer fees in recognition of their proprietary right. It is difficult to estimate their loss of Transfer fees in absence of statistics. It is no doubt very large. The effect of the Act on raiyats is disastrous as right of free transfer will soon make them landless labourers.

*Additional reply to Q. 49, by Rai Bahadur Ganesh Chandra Das Gupta alone.*

The operation of the laws of nature is to create difference between man and man. All civilized Governments attempt to make them equal. But no amount of human legislation can make all men equal in strength, skill, courage, intelligence, character, enterprise and industry. All that the best Government can aspire to do is to provide for the protection of

the life and means of life for every individual in the country, and to give equal opportunities to all for training and culture, and to supply the weakest of them with the absolute necessities and amenities of life by providing for them hospitals and asylums and for educational institutions. The most important thing that matters is intelligence. If all the men in a country are arranged in an ascending scale of intelligence into three classes it will be found by the law of averages that a very large majority of the people will be found grouped together in the class marked as class of average intelligence, i.e., the middle class; a very small number will be found placed in the group of higher intelligence and an equally small number will be found grouped under lower intelligence. This will be demonstrated by quetelets, statistical tables, given as an appendix in Galton's Book on Heredity and Genius.

Skill can be acquired by intelligence and skill begets confidence and confidence begets courage, and the combined effect of these four (intelligence, skill, confidence and courage) gives a spirit of enterprise and industry. So the basic difference between man and man, is the difference in intelligence. Nature and culture can improve intelligence but cannot supply intelligence when there is none. All differences in political and economic situation in a country are brought about by superiority in intelligence, either foreign or indigenous. Knowledge, it is said, is power, but when knowledge is not guided by intelligence it is not power. Any disposition of power contrary to the laws of Nature is unstable and makes for revolution.

Unintelligent people at the bottom are the class known as unskilled labourers. As soon as they acquire skill and have intelligence enough to rise higher, they cease to belong to the class of unskilled labourers. So the law of Nature prevails and cannot be abrogated by human agency.

Karl Marx during his later years was convinced that his theory of communism advocated in his book "Das Capital" was only suited to an industrial country like Germany and not suited for agricultural country with a complicated landtenure system and was writing a separate book for this class of cases but could not finish it before his death. This will be found in the life of Karl Marx given in Encyclopaedia Britannica, 1st edition. Communism was found unsuitable even in an agricultural country like Ukraine in Russia (*vide* the published letters of Lenin) and the theory of communism had to be greatly modified for Ukraine in the later Moscow legislations.

Bengal is an agricultural country and its position is unique in the World in this respect. So the problem of landtenure in Bengal has to be solved on its own merit and not merely by ideas borrowed from

any other country. The following questions emerge at once for consideration :—

- (i) We must take into account the existing facts, brought about by custom, usage and legislation.
- (ii) We must try to modify them gradually without introducing revolutionary measures.

The foremost condition is to make Bengal self-sufficient in the matter of food supply. Bengal cannot expect any other country to supply its food because Bengal has nothing to give in exchange. Industrialisation is no solution for this problem for articles manufactured in Bengal cannot be expected to find a market in other countries against foreign competition. The highest amount of industrialisation possible in Bengal is to make Bengal self-sufficient in the matter of Industry, or in other words the industry of Bengal should be able to supply the needs of the people of Bengal in respect of articles of manufacture. So the two propositions are :—

(1) Bengal should grow staple food, i.e., paddy and pulse to feed the whole population of Bengal, and hence there should be a sufficient area for paddy and pulse and a sufficient number of paddy growers for cultivating the area for the required quantity of paddy and pulse.

(2) The non-agricultural population of Bengal should be so skilful and efficient as to be able to give in exchange of rice and pulse all the necessaries and comforts of the paddy growers of Bengal including their training and culture and more particularly their technical training in cultivation.

By natural competition and by the operation of natural laws, the lowest class of intelligence in the country will find occupation as unskilled labourers in Industries, and as halias or bargadars amongst paddy growers. The area under paddy in Bengal is 25·7 million acres as given by the statistics and the population of Bengal is 50·1 millions.

Now, it will be seen that an average man requires 6 maunds of rice or 12 maunds of paddy per annum for his food. The average yield of paddy per bigha is 6 maunds a year so every man requires at least 2 bighas of paddy land for his staple food only. It has been established by agricultural chemistry that if pulse is grown as a rabi-crop it helps the growth of paddy but all paddy land is not fit for growing pulse. As the quantity of pulse necessary for the year is about 1 maund it will not be necessary to set apart additional land for pulse. The unit of society is not an individual but a family-man, wife and children. Taking an average family of a paddy grower to consist of 5 members and 3 of them men and women capable of doing work, for women are as

much necessary for agriculture as men (by cooking their food and husking and cleaning paddy and nursing and rearing their children, etc.). A family of paddy growers would require at least 10 bighas of paddy land for their staple food and as an average family consists of two adult male members and as 2 men cannot cultivate more than 10 bighas of paddy land, we may find the number of the family of paddy growers necessary to cultivate the area under paddy in Bengal.

As the area under paddy is 25.7 million acres, i.e., 77 million bighas and the paddy produced can only feed a population of 38.5 millions, therefore the paddy grown is insufficient to feed the people of Bengal who are 50 millions and hence the cry of *dal bhat*, and the unskilled labourers being the lowest in intelligence are the hardest hit and greatest sufferers in Bengal in this respect. It will appear that the total area under paddy must be over 100 million bighas even at present and the population is increasing at the rate of 1 per cent. per annum, that is, an increase of one per minute while the area under paddy is practically the same excepting deltaic islands which are very small, and it requires a good many years before any new alluvial formation is fit for paddy and in no circumstances can give two bighas of paddy land per minute.

The experience of Government farms in the matter of growing paddy has shown that the yield of paddy in Bengal cannot be increased by adoption of machinery or by artificial manner except at a prohibitive cost (*vide* N. G. Mookerjee's Hand Book of Agriculture). Late Mr. R. C. Dutt, I.C.S., has shown that the paddy growers of Bengal have not adopted western methods because they are unsuited to the lands of Bengal and are very much more costly and that as a matter of fact they have better local experience in these respects than the so-called experts. The number of paddy growers necessary under present circumstances to cultivate the present area under paddy is 38.5 millions. We find from the statistics that the raiyats and under-raiyats number 21 millions. So I presume that the remainder, i.e., 17.5 millions may possibly be landless agricultural labourers. If the area under paddy is increased from 77 million bighas to 100 million bighas or in other words if 23 million bighas are added to paddy-growing land they will absorb 11.5 millions of landless agricultural labourers and their families. The remaining landless agricultural labourers (6 millions) should find employment as unskilled labourers in industry and this requires expansion of industry in Bengal. The area under paddy has been too much restricted by the growth of jute, betelnuts, sugarcane and tobacco under the lure that they are money-producing crops. And this is the most important cause of scarcity of food of the people of the lowest stratum. The restriction of cultivation of paddy is suicidal and the idea of replacing the paddy by money

making crops is absolutely preposterous and is sure to bring on famine and will not supply *dal bhat* to the lowest class of cultivators. But when the quantity of staple food produced in Bengal is small and insufficient to feed the whole population somebody must suffer, however high the price of rice may be and the weakest and poorest will be worst sufferers. The economic solution of Bengal lies in making Bengal self-sufficient in the matter of staple food as well as in the matter of manufactured articles. So long as this is not done no amount of tinkering in legislation can help the situation. The rent of paddy growing land should be fixed by legislation so as to enable the paddy growers and their family to have the absolute necessities and comforts of life, and diminution of paddy growing land should be stopped by legislation. The rent of tenures should be reduced in proportion to the quantity of paddy growing lands under them. It will be optional with zamindars also to take a proportionate reduction of revenue, but if they do so the budget will have to be recouped by levying an additional income-tax for this purpose derived by these zamindars from agricultural lands, but without in any other way affecting their rights under the Permanent Settlement. When the income of any such individual zamindar from agricultural sources be less than Rs. 2,000, he should be exempted, as in all other cases of investment. Paddy growing lands should be divided into 3 classes in each union under the union board and 10 bighas of land of each class should be cultivated under the supervision of the Circle Officer, in order to ascertain the actual cost of cultivation which should include the maintenance of the family of cultivators, the remainder, if any, should be divided into 3 equal parts; one-third will go to the tenant having the right of occupancy in the land and two-thirds to his immediate landlords. In khas mahal one-third will be given to tenureholders, if any, and the remaining one-third to Government as revenue. Every family of paddy growers should have in addition to ten bighas of paddy land, two bighas of homestead land for their dwelling, cattle-shed, tank for drinking water, garden for vegetables and cotton, workshop for cottage industry and trees for fuel and fruits. If such a scheme is worked out it may solve the economic problem of Bengal, and both the landlords and tenants may come to an agreed solution. An adjustment of the revenue now paid for the estate will have to be made according to this scheme, but there should be a positive assurance in the statute that the adjustment made according to this scheme will not affect the other rights of the zamindars and the tenureholders, which are not repugnant to the statute. The foremost duty of Government should, therefore, be to bring under cultivation waste lands and jungle lands so as to increase the area of land under paddy until it is twice as many bighas as there are people in the country. If the population increase at this rate, namely, 1 per

minute, it will be necessary for the people of Bengal to migrate to other provinces having a spare population and to colonise there and start industry if there are no suitable lands for agriculture. The men of such colonies must either grow their own food or have skill and intelligence by which they can manufacture articles good enough to fetch food from other country by exchange. There is no other possible solution of the economic problem. Many people from other provinces have come to live in Bengal for want of food either as traders or as non-agricultural labourers, skilled and unskilled. Bengalees must do the same by way of reciprocity. There is enough spare land in the continent of India for this purpose as any map of India showing the density of population in each different part of India will show. It is a question of intelligence, skill, courage and enterprise for the next generation.

### Reply by the Burdwan Bar Association.

**Q. 1.** The description of the objects of the Permanent Settlement is only illustrative and not exhaustive. The chief object was to put the revenue system of the province on a stable basis and to ensure punctual payment. It exacted the maximum possible revenue out of the existing assets, at that time. It was a political necessity and an economic gain. It was a God-send when the Government was at its wit's end to balance the budget. This steady and unvarying income from the soil enabled the British nation to build up their Indian Empire. Bengal paid the expenses of the ambitious wars and annexation in northern and southern India. Madras and Bombay never paid the total cost of their own administration during these years.

There were no clear cut or well defined rights of the tenants before 1793. The tenants were completely at the mercy of landholders or the State before that date. There was nothing to be taken away.

**Q. 2.** Yes, it certainly did. The zamindars had absolute discretion in choosing new tenants for the reclaimed waste lands in evicting paikust raiyats and in refusing to recognise transferees.

**Q. 3.** The Commissioner, Burdwan division, reported on the 20th October 1883 "the wealth and prosperity of the country have marvelously increased, and increased beyond all precedent under the Permanent Settlement and the zamindars have been very active and powerful factors in the development of this prosperity".

**Q. 4.** Not at all. The zamindari was a permanent inheritable and transferable interest before 1793, subject to a formal confirmation of the Ruling Power. But absolute proprietorship of the soil or the aggregate of rights akin to fee-simple was unknown to India and not even claimed by the sovereign.

**Q. 5.** Yes, certainly. Annulment of the Permanent Settlement would be a breach of solemn pledges and contracts of an established Government believing in which large sums of money have been invested in land. A contract generally implies two parties. The tenants were not necessary parties and were out of the picture altogether. The financial resources of the province have not been crippled. Bengal pays more in cesses, income-tax, jute duties, stamp duties and customs than other provinces.

**Q. 6.** Yes, the zamindars have amply fulfilled the expectations of the authors of the Permanent Settlement. The Fifth Report of the Select Committee of the House of Commons stated in 1812, "Due to the Permanent Settlement, Bengal exhibited in every part of it, improvement on a general view, advancing with accelerated progress in later

times." His Honour Lt. Governor Sir Peter Grant in his Memorandum, dated 10th August 1861, stated "The Settlement as a whole was a heavy assessment at the time and its wonderful financial success is beyond all question".

A correct estimate of the different factors that contributed to the reclamation of waste lands is difficult. The settled order of things brought about by the zamindars after 1793 was the chief factor, (iii) is responsible for at least 80 per cent. of the increase, (ii) may be responsible for 15 per cent. and (i) for only 5 per cent. of the increase in cultivated area.

**Q. 7.** The valuation of the khas lands is in many cases arbitrary. If proper scrutiny is made this may have to be reduced by 33½ per cent. in many cases. The settlement report of the rent roll of the raiyats is not the correct guide. There may have been submersion of large areas under water, deposits of sand and consequent surrends in many cases and lands being covered with weeds due to depopulation in villages, since the last settlement records. At least 15 per cent. of the rent roll will have to be deducted on those accounts. It is rather difficult to assess the comparative percentages of the causes of the increase in rent roll. But the chief factor is undoubtedly the zamindar's good management and industry, to (i) may be ascribed 90 per cent. of the increase, to (ii) 9·5 per cent. of the increase and to (iii) ·5 per cent. of the increase.

**Q. 8.** Yes, the zamindars did behave with moderation and treat their tenants with generosity. That was the reason why raiyats settled down in villages and population increased in villages in the first few decades after 1793. Had they oppressed and evicted their tenants indiscriminately, the lands would have remained uncultivated.

**Q. 9.** Almost half of the agricultural land of Bengal remained uncultivated and infested with wild beasts in 1793. The pioneer zamindars by their industry, enterprise and good management reclaimed these waste lands and converted them into fertile fields. The railways have obstructed the natural drainage systems and converted the villages into hot-beds of malaria, cholera, etc. This has driven the zamindars and many others from the villages to the towns.

**Q. 10.** Yes, it is an economic gain in the long run. Mr. R. C. Dutt writes "In England the Land Settlement of 1798 benefited the landed classes only. In Bengal, the Settlement of 1793 has benefited the whole agricultural community. The entire peasant population shares this benefit and is more prosperous and resourceful on account of this measure. It has afforded a protection to agriculture which is the only means of the nation's subsistence."

**Q. 11.** All the grounds are fallacious—(i) There is a chain of intermediaries between the zamindar and the actual tiller. The tenant enjoys at least 50 per cent. of the income. The remaining 50 per cent. is shared by the 63 lakhs of zamindars and tenureholders with co-sharers.

(ii) Yes, it has led to equitable distribution of national wealth by subinfeudation.

(iii) Even with a little enhancement the average rate is Rs. 3 per acre, whereas it is Rs. 4-11 in the khas mahal areas.

(iv) The zamindars, now, have very limited powers of enhancement or eviction under the statute. Had they been oppressive, the raiyats would have left the permanently settled areas and repaired to the khas mahals. History tells a different story. The criticism is based on ignorance and not justified.

**Q. 12.** No, I do not. But if it is necessary to take away the legal rights of the zamindars guaranteed under solemn pledges and contracts of the Sovereign Power, as a matter of public policy, or expediency, fair and adequate compensation must be paid to the zamindars and other tenure-holders.

**Q. 13.** The argument is wrong. Even admitting that it involves a loss, it cannot be regretted when we consider what difficulties it conquered and what prosperity it has introduced and achieved. If the land revenue had been flexible, the jute tax, income-tax and custom duties would have been productive of a much lesser income.

(i) The abolition of the zamindari system shall reduce the receipts under the heads of (a) stamp duties, (b) customs, (c) income-tax and (d) jute tax.

(ii) This method may result in the increase of land revenue, but the revenue from other sources will record a large fall. The income will be uncertain and there may be large defalcations.

(iii) I cannot advocate agricultural income-tax either on the grounds of justice, equity or good conscience. Land is overburdened with too many taxes and any further taxation would make agriculture unremunerative and a loosing concern.

**Q. 14.** If the Permanent Settlement be abolished or modified, full compensation shall have to be paid to the zamindars who have invested very large sums of money, implicitly believing in the solemn pledges of the Government. 240 crores of rupees or if the khas lands, also, are bought up 320 crores of rupees may have to be paid. 20 years' value on the nett income to be paid.

**Q. 15.** If compensation is paid in bonds and not in cash, it may be paid in 5 per cent. income-tax-free bonds redeemable after 20 years. The bonds should be terminable.

**Q. 16.** It will compel the zamindars to stop or curtail their social activities and charities. The middle class which supplies the strata of educated men will disappear.

**Q. 17.** Yes, in case of State purchase of the zamindaris the interests of the tenure-holders should, also, be purchased at 20 years value on the nett income less 10 per cent. collection charges. I am afraid the history of the revenue system before 1793 will be repeated. But the tenure-holders being freed from cares and worries of management will divert their attention to other profitable industries.

**Q. 18.** The additional machinery will consist of a chain of officers and staff which will cost the Government about 2 crores of rupees.

**Q. 19.** No, I do not think so, as the average rate of rent is higher in the khas mahal areas than in the permanently settled estates and summary process of the realisation of rent and agricultural loans is considered oppressive by the raiyats, and the Government is the most successful enhancer of rents.

**Q. 20.** Yes, the subinfeudation has come as an economic necessity after 1793. When zamindars found the estate too big for them they sub-let it to others and so on. The social and economic condition of the raiyats has not been much affected as they enjoy equal facilities and advantages with the direct raiyats under the zamindars. It has, however, prevented the growth of economic holdings.

**Q. 21.** With the disappearance of the tenureholders who form the middle class, the social and economic activities of the province, will be affected. Some may turn their attention to industries.

**Q. 22.** In case of State purchase, compensation in the shape of 20 years' value on the annual cess valuation is to be paid to the zamindars and tenure-holders for their khas lands. The homesteads must be left to them on payment of fair rent to the Government. The criterion for the zamindar's khas lands shall be his title deeds and possession.

**Q. 23.** A prescriptive right akin to it existed only in favour of the khudkhast raiyat but not in favour of any other raiyat. The occupancy right as such is a creation of the British legislation.

**Q. 24.** If we look back through the mists of 2,000 years, we find village communities and head men distributing the gross produce between the State and the other sharers. "Proprietorship" in the English sense or that highest aggregate of rights called "fee-simple"

in England was unknown to India. During the Hindu or Muhammadan periods, even the independent Ruler never claimed it and the tillers of the soil never dreamt of it.

**Q. 25.** The actual tiller of the soil is very often a day labourer. He neither claims nor is entitled to any protection from eviction. If occupancy rights are given to the actual tillers in every case, the statutory raiyat will be expropriated and the middle-class who live on land will be expropriated at once. I favour limiting the occupancy rights to one class of tenants and not extending it to other grades.

**Q. 26.** The extension of occupancy rights to more than one grade of raiyats will lead to still further subinfeudation and add complications to the already complicated land tenure system of Bengal. I do not advocate this principle. (a) and (b) are instances which prove my case.

**Q. 27.** No. Only the khudkasht raiyats were protected to some extent. Article VII of the Regulation mentions "dependent talukdars, raiyats and other cultivators of the soil". Non-agriculturists were not contemplated by the Permanent Settlement. No, except in special cases.

**Q. 28.** Not necessarily. Ordinarily, the zamindar should have the right to forfeit such leases. The State cannot intervene nor levy any additional tax for conversion of such land under the Permanent Settlement. The zamindar is entitled to such additional tax, if any.

**Q. 29.** In some areas the number may be on the increase. Generally, the number is steady.

**Q. 30.** Yes, all the three factors are responsible for the increase, if any, in the number of the bhagchasis or adhiars.

**Q. 31.** The area of land normally held by a bargadar is about 2 or 3 acres. No, usually they do not hold land in any such right.

**Q. 32.** No. They are practically agricultural labourers and are paid in kind by a share of the produce. They cannot claim any protection.

**Q. 33.** Yes, it is economically sound. It provides employment for a section of landless people.

**Q. 34.** The effect of giving occupancy rights to bargadars will be robbing the raiyat of his legal rights and would spell the ruin of the middle-class. It will throw all the bargadars out of employment.

**Q. 35.** Ordinarily 50 per cent. of the produce is paid to the land-lords which is a fair proportion. Custom varies in different areas. The maximum limit may be fixed at 60 per cent.

**Q. 36.** The wages are usually 4 to 5 annas per day in addition to fooding paid. They are sometimes better off than the bargadars.

**Q. 37.** Yes, the Act of 1938 has increased this tendency. The results will be prejudicial to the cultivating raiyats as a whole. The transfer may be restricted to agriculturists only and imposition of landlords' fees on transfer would be a salutary check.

**Q. 38.** At least 20 acres; for cultivation with tractors an economic holding should comprise 1,000 acres.

**Q. 39.** Yes, the laws of inheritance, the statutory rights of transfer and subdivision and the increase of population, all these factors tend to further fragmentation of holdings.

**Q. 40.** Yes. This may be practicable only by acquisition of small holdings on co-operative basis and making the raiyats share-holders in the society.

**Q. 41.** Yes, "reserve bidding" as in the partition of the estates may be provided for to help the cultivator to consolidate his holdings.

**Q. 42.** The question is problematical. No limit can be placed by legislation on such accumulation.

**Q. 43.** Yes, coparcenary is detrimental. The law of inheritance shall have to be changed.

**Q. 44.** Nothing, unless the Hindu and the Muhammadan laws of inheritance are changed and the Bengal Tenancy Act of 1938 is amended so as to restrict transfer and check fragmentation.

**Q. 45.** The law is there already. Section 93 (ii) of the Bengal Tenancy Act, 1938, provides for it.

**Q. 46.** Yes, the Permanent Settlement was a device to exact the maximum possible revenue out of the ascertained assets at that time. Even to-day, nobody can enter on any business on such a small margin of profit. The zamindars were caught in the trap.

Yes, it was contemplated that the zamindars would increase their income by reclaiming waste lands and by enhancing rents.

**Q. 47.** The framers of the Permanent Settlement did not contemplate fixity of the rates of rent either in the case of the existing tenants or in the case of the new tenants, as the Despatches of the Board of Directors would show. The Board of Directors wrote to the Government of Bengal in their letter, dated 15th January 1812, "the Permanent Settlement has secured to the proprietors of the estates the whole of the rise in their rental." In 1815 they wrote "the effect of the Permanent Settlement.....is to augment the landlords' rent". The preamble to Regulation XLIV of 1793 also proves this.

**Q. 48.** The only tenures of which rent was fixed in perpetuity were mokararidars and istemrardars who had (a) held at a fixed rent for more than 12 years or (b) contracted for payment at a fixed rent with the zamindar or actual proprietor. The khudkasht raiyat was protected from eviction under certain circumstances. Other tenancies were not meant to be fixed in perpetuity. (a), (b) and (c) prove this. The intention of the Government which enhanced rents more determinedly and effectually than private proprietors did or could prove this.

(d) The Bengal Tenancy Act of 1885 and the Rent Act of 1859 went beyond the intentions of the framers of the Permanent Settlement. Sir Barnes Peacock, the then Chief Justice of Bengal characterised such provisions of the Rent Act of 1859 "as the greatest Act of injustice" in the Great Rent Case of 1865 Thakooranee Dassi *vs.* Bisseswar Mukherji, 3 W. R., Act X Ruling, p. 29.

(e) This is a fallacy which does not stand scrutiny. The Minute of Lord Cornwallis, dated the 3rd February 1790, the letters and despatches of the Board of Directors all go to show that the rents of the raiyats were not made unalterable and the enhancement of rent by the zamindars was clearly contemplated.

**Q. 49.** The argument rests on a false premise. There is no case absolutely either on historical or economic grounds to reduce the rents of the raiyats to the rates prevailing at the time of the Permanent Settlement. It is nowhere said in the Bengal Regulation or in the despatches of the then Governor-General that the rents of the raiyats were fixed for ever, excepting in the case of two kinds of tenures mentioned above. A cursory glance at the price lists of the staple food crops since 1897-1926 will convince all critics that the slight increase in rent since 1793 is justified. In the 22 years following the Permanent Settlement, almost half of the landed property in the province was transferred by public sale and it is difficult to trace the prevailing rate of rent of 1793.

**Q. 50.** It was not the intention of the Permanent Settlement to fix the rate of rent of any class of raiyats unalterably. The Rent Act of 1859 rather violated the covenants of 1793 and barred the enhancement of a certain class of raiyats. This was the first inroad into the rights of the zamindars.

**Q. 51.** The preamble to the Regulation XLIV of 1793 shows that "the proprietors of land should have discretionary power to fix the revenue payable by their dependent talukdars". Section 52 of the Regulation VIII of 1793 runs thus "the zamindar is to let the remaining lands of his estate or zamindari in whatever manner he may think proper."

**Q. 52.** There cannot be any hard and fast rule of determining any fair and equitable rent. It must vary according to the facts and circumstances of the case. The question was thrashed out in the Great Rent Case of 1865 by the learned Judges of the Calcutta High Court. All the different systems of assessment may be tried in different cases.

(i) Yes, this is a good principle. The new rent must be lower than a full rack-rent, as the old rent was lowerer than the full rack-rent.

(ii) Yes this may be tried in some cases. The more equitable thing would be  $\frac{3}{4}$ ths share for the landlord and  $\frac{1}{4}$ th share for the tenant of the nett increase.

(iii) Yes, that is a disadvantage.

(iv) May be tried.

(v) This is an uncertain and varying item.

(vi) This must be one of the factors.

**Q. 53.** It is difficult to assess the extent. All the principles or most of them must have been at work. (a) Custom, (b) competition, and (c) consideration of the productivity of the land, all these factors must have been at play in arriving at the rents fixed. Yes, the rates of rent must of necessity differ greatly in different areas.

**Q. 54.** This may happen in some cases, as such tenants have no capital to go in for a better class of land.

**Q. 55.** Even if all the zamindars and middlemen are removed re-adjustment of rent on an uniform basis throughout the province is an impossibility. Rate must vary in different localities for the same class of land according to custom, competition, price levels, nature of produce grown, etc. No new record-of-rights is necessary.

**Q. 56.** If a definite share of the produce or its equivalent in cash is paid, I would recommend 60 per cent. of the gross produce for payment and to the existing landlord or the State, as the case may be.

**Q. 57.** If the State limits its demand in perpetuity not only in theory but in practice and ceases to impose fresh taxation by way of cesses or agricultural income-tax or death duties, the current rates of rent now determined may be fixed in perpetuity. Otherwise the rates of rent should be re-examined every 15 years, as now.

**Q. 58.** No. A minimum income shall have to be exempted and the difficulties of collection will be many and much more complicated. A large proportion of land must escape assessment.

**Q. 59.** If there is any defect, it is on the side of leniency. The procedure for fixing fair and equitable rents is very rigid and needs no modification.

**Q. 60.** No. I do not. Even fluvial action has to be paid for in these days. The landlords pay the canal rates, where there are irrigation facilities. It is, also, equitable because there is reduction of rent, in case of deteriorations of land.

**Q. 61.** I do not object to such assessment, as the landlord has a share in the produce and has to pay increased indirect taxation and must make good his losses in the years of depression.

**Q. 62.** Yes, this makes no difference.

**Q. 63.** No. Selami is not an advance payment of rent. It represents the improved market value of the land to which the zamindars are entitled as proprietors of the soil.

**Q. 64.** Section 29 of the Bengal Tenancy Act provides against high contractual rents. The limitation of rents for new settlements is economically and fiscally unsound.

**Q. 65.** The time-limit for applications under sections 105 and 106 of the Bengal Tenancy Act may be extended to 6 months.

**Q. 66.** I do not know of any such case.

**Q. 67.** Yes, that may happen in many cases.

**Q. 68.** No.

**Q. 69.** If the Government enhanced rent of any raiyat during the years when prices were steadily going down and had gone lower than that of the prevailing rate during the currency of the present rent, it would be a mistake.

**Q. 70.** The rates may vary according to custom, competition and the nature of the produce grown.

**Q. 71.** I am not aware of any case where the Government has granted substantial remission of land revenue in the permanently-settled areas, in the years of distress and famine, on the conditions mentioned.

Yes, remission of revenue are very rarely granted. The reasons put forth by the Government are that the distress is not sufficiently acute and that remission of revenue would paralyse the normal administration. A more liberal policy may be tried.

**Q. 72.** The average yield and cost of cultivation per acre of staple food crops varies according to local conditions. No uniform average for all areas is possible.

**Q. 73.** Yes. The absence of the modern scientific methods of cultivation, the want of manure and fertilisers, all these factors set the law of diminishing returns in operation. The steps taken by Government

for improving the methods of cultivation are inadequate and do not reach the country side.

**Q. 74.** The Bengal Land Improvement Act does not provide for loans for the redemption of old debts and consolidation of holdings. The summary process of realisation, high rate of interest and very short instalments under these Acts do not attract people to make extensive use of them.

**Q. 75.** Yes, probably because the areas are, now, fully developed.

**Q. 76.** Yes, I am not aware that any portion of selami is utilised in improving the agricultural condition of these lands.

**Q. 77.** The Permanent Settlement has caused subinfeudation and the laws of inheritance, and the Bengal Tenancy Act of 1938 have facilitated further fragmentation. The Bengal Tenancy Act shall have to be amended and the laws of inheritance changed.

**Q. 78.** The provincial Banking Enquiry Committee of 1929-30 estimated the average income of a raiyat (*a*) from his holding at Rs. 16 per annum and (*b*) from other sources at Rs. 8-8 per annum. Unless they are improvident, the majority of the raiyats can maintain themselves and their family from the income, provided the price of staple food crops is made remunerative.

**Q. 79.** Yes, I think it is satisfactory. The method in vogue in the United Provinces may be tried, if necessary, without any additional cost to the persons interested in land.

**Q. 80.** Yes, the following methods and a few others may be tried for increasing the income of the raiyats. A minimum price for the staple food crops must be fixed, by restricting the area under cultivation or any other means.

(*i*) The modern M. S. N. plough suggested by Dr. Clouston may be used. Rotation of crops. Cultivation of leguminous crops cowdung manure and modern fertilisers may be tried.

(*ii*) Yes, sale of cocoanuts, betelnuts, sericulture, cultivation of lac, poultry, fishing, sale of milk, rearing of goats and sheep may be tried.

(*iii*) Yes, hand-spinning of yarn, cane chairs and other handicrafts may be encouraged.

(*iv*) Yes, larger co-operative credit on easier systems of repayment and co-operative marketing and irrigation facilities may be tried.

(*v*) This may only be done by the co-operative societies. The breed of cattle and bull must be improved.

**Q. 81.** This may be one of the reasons. I cannot assess the percentage of surplus population.

**Q. 82.** Yes, that is one of the means. Late marriages, birth restriction, emigration, intensive system of cultivation are the other means of reducing the pressure of population.

**Q. 83.** Co-operative credit facilities are to be extended. The Government organisation is extremely meagre and cannot meet the requirements.

**Q. 84.** This may be a correct estimate. But there is no help for it, unless the Government sets up an alternative form of finance to meet the needs of all the agriculturists reformers may talk with implacable benevolence on paper but that will not help the raiyats.

**Q. 85.** The co-operative credit societies have not touched the fringe of the problem. The total agricultural debt of Bengal have been estimated at Rs. 100 crores but the loans supplied by the co-operative societies amount to about Rs. 4½ crores only. Yes, the rate of interest realised by the co-operative societies should be reduced if possible, to make the societies more attractive. Only about 85 per cent. of the agriculturists are members of such societies. No society has succeeded in wiping out debts of its members. The percentage is nil.

**Q. 86.** Robbing Peter to pay Paul does not pay and is not a sound economic policy. In the words of Mr. H. P. V. Townend, C.I.E., "the tendency to defraud creditors is bound up with the working of the Act. Many applications came in from people whose chief object is to delay payment and who have no intention of settling their debts. Yes, rent be taken away from the purview of this Act."

**Q. 87.** Yes, it is good suggestion. But Land Mortgage Banks of the co-operative type may be more suitable and that may be grafted on to the existing Co-operative Central Banks. Long term loans will also have to be provided.

**Q. 88.** The Land Mortgage Banks are very few in number and are unable to cope with the colossal problem of agricultural indebtedness. There must be many more Land Mortgage Banks providing loans on cheaper terms.

**Q. 89.** Yes, the Bengal Tenancy Amendment Act of 1938 and the Bengal Agricultural Debtors Act of 1935 have made the procedure for realisation of rents more costly and still more cumbrous. It is harassing and expensive more to the landlords than to the tenants. I suggest that rent be taken away from the purview of the Bengal Agricultural Debtors Act and certificate procedure for realisation of rents be restored to the landlords.

**Q. 90.** Not necessarily, unless it is used in the time of distress or in seasons when there is no harvest. My suggestion is that Debt Settlement Boards be debarred from trying rent suits or rent decrees

or decrees for shares of the produce which should be tried by the Civil Courts only. The interests on arrears under the Public Demands Recovery Act should be reduced to  $6\frac{1}{4}$  per cent. as in the Bengal Tenancy Act of 1938.

**Q. 91.** I do not support the repeal of the Bengal Regulations and replacement of them by a new Act.

**Q. 92.** Yes, the Revenue Sale Law may be amended so as to reduce the penalty on arrears to  $6\frac{1}{4}$  per cent. maximum and the sales be made liable to be set aside on deposit of arrears and costs within sixty days.

**Q. 93.** The Bengal Tenancy Amendment Act of 1938 will tell adversely on the tenants and landlords alike. It is a device to benefit a class of statutory raiyats who have ceased to be the actual tillers of the soil and are in the nature of tenure-holders. Section 86A provide for abatement of rents on account of diluvion in the case of tenants but there is no such provision for abatement of patni rent or revenue in the case of patnidars and zamindars. The repeal of the sections 26D and 26E of the Bengal Tenancy Act and amendment of section 88 of the Bengal Tenancy Act of 1928 have facilitated the transfer of holdings to non-agriculturists and, still, further fragmentation. It has made the realisation of subdivided rents through Civil Courts unremunerative. The amendment of section 26G of the Bengal Tenancy Act of 1928 has resulted in the expropriation of the village money-lenders and has made rural credit illusory. The loss to the landlords' incomes on account of the abolition of landlords' fees may according to the Government statistics be estimated at Rs. 36.74 lakhs per annum on an average of the last 8 years up to 1936-37.

### Reply by the Dacca Bar Association.

**Q. 2.** The property in the soil having been formally and solemnly declared to be vested in the zamindar by the Permanent Settlement, it necessarily carried with it the power of the zamindar to choose his tenants.

**Q. 3.** The phrase "economic development" is rather two vague. The notion of economic development as it existed in 1793 and for a century after that should not be confused with that now in vogue. The zamindars did their part in the extension of agriculture according to prevailing notions and we do not consider that they failed to perform the functions expected of them at the Permanent Settlement. They constructed roads, excavated tanks and have established hospitals and schools.

**Q. 5.** First part contains one of the valid grounds against the annulment of the Permanent Settlement. In a matter of legislation the question of a particular class of subjects being a party or not, can never arise, it must be presumed to have been done for the benefit of all and in fact, under the conditions then existing, the people as a whole were benefited by it. The apparent loss of revenue was taken into full consideration at the time and the advantages more than counterbalanced their loss. As a result of this measure good Government and order were restored in place of chaos and disorder.

**Q. 6.** Article VI of Regulation I of 1793 gives the avowed object. The expectation has been substantially fulfilled. Increase in the area brought under cultivation is due to the combined effect of the three causes mentioned.

**Q. 7.** The increase is due to the combined effect of the three causes.

**Q. 8.** The landlord's duty towards tenant is mentioned in Article VI as stated above: yes, the expectation has been substantially fulfilled. Except in very rare cases landlords and tenants remained in perfect amity till the present agitation was started recently by outside agency.

**Q. 9.** There had been substantial improvement according to existing ideas; "exert themselves in cultivation" is the language of the Regulation; the duty towards the tenants was mentioned in Article VI of the Regulation; the landlords have substantially carried them out. Absenteeism has been the result of changed conditions of living and changes in the system of Government and has, led in some instances to undue reliance on officers.

**Q. 10.** It was so, according to the conditions then prevailing in the country. It was beneficial to the province and never resulted in the advantage of landlords at the expense of the tenants.

**Q. 11.** These criticisms are unjustified and some of them without foundation: the tenants of khas mahals are worse off than those under the zamindars.

**Q. 12.** No.

**Q. 13.** We do not advocate any of these methods.

**Q. 14 and 15.** Do not arise.

**Q. 16.** The effect would be disastrous and will ruin not only the zamindar but also that great body of people, Hindus and Muslims, known as the middle class and will expose the tenants to harassment and caprice.

**Q. 17.** It assumes the abolition of the Permanent Settlement. The tenures should be kept intact, their purchase by the State will lead to no advantage to the tenant.

**Q. 19.** We do not think the raiyats would prefer. Khas mahal raiyats do not enjoy any advantage whatsoever.

**Q. 20.** *First part*—Yes. On account of the sense of security in the Permanent Settlement people wanted to invest money in land by tempting offers to the zamindar in the shape of salami, &c.

*Second part*—Creation of tenures has not adversely affected the position of the raiyats either economically or socially on the other hand it has greatly facilitated personal touch between the raiyat and the tenure-holder to whom he has to pay rent.

**Q. 21.** State purchase of tenures would be ruinous to the social and economic position of the province by wiping out the middle class consisting of Hindus and Muslims and by worsening the unemployment problem.

**Q. 22.** Homestead and khas lands should be left intact as at present: the criterion for ascertaining khas lands should be the same as now exists for determining khamar.

**Q. 23.** Similar rights enjoyed from earlier period.

**Q. 25.** We are not in favour of extending the principle to more than one grade of tenant. There are numerous cases where the occupancy raiyat, owing to various reasons, gets his land actually cultivated by another; it is a disastrous principle to extend the right of occupancy to such “actual cultivators”.

**Q. 27.** Permanent Settlement did not contemplate non-agriculturists.

No.

**Q. 28.** No reason: additional tax may be imposed.

**Q. 29.** Yes, on the increase. Due to insufficiency of the income derived from lands people are seeking other means of income making arrangements with bargadars for the cultivation of their lands.

**Q. 30.** The increase did not take place after 1929. No; (*iii*) is imaginary.

**Q. 32.** Right of occupancy should not be extended to bargadars. Their rights are being protected by contract and custom.

**Q. 33.** There is nothing economically wrong in the system.

**Q. 34.** It will have the immoral and uneconomical effect of taking away land of one person to give to another who has no right to it.

*Second part*—Yes, it will lead to that consequence.

**Q. 35.** Half the produce; no legislation is necessary; the matter should be left to agreement and custom and usage.

**Q. 36.** Generally 4 annas to 5 annas per day of 6/7 hours. Bargadars and under-raiyats have generally some lands of their own in occupancy right, hence they are generally better off than a mere agricultural labourer.

**Q. 37.** Yes.

Right of transfer is prejudicial to the cultivating class as a whole. We are not in favour of restricting transfer to agriculturists only besides it will be impracticable.

**Q. 47.** We do not think that permanency and fixity of rate of rent of tenants were contemplated by the framers of the Permanent Settlement.

**Q. 54.** *First part*—No.

**Q. 55.** No, it must be done on the basis of conditions existing in each locality.

Yes. It can be done by periodical tests in each locality.

**Q. 56.** One-sixth.

**Q. 57.** Should not be fixed in perpetuity but alterable according to the money value of the produce: needs of state should never be a criterion as it is too vague a term and besides the state has ample power to raise money by any means in times of emergency. Not less than 20 years for re-examination.

**Q. 58.** *Fist part*—No.

*Second part*—Yes.

**Q. 60.** No.

*Second part*—It is not fair.

**Q. 61.** No.

**Q. 62.** Yes; it will be impossible to distinguish such tenants, besides they share in the general improvement.

**Q. 63.** *First part*—No.

*Second part*—No. Salami.

Can't be called advance rent: it was a premium paid with the consent of both sides.

**Q. 64.** No; legislation curbing contractual rights or capacity is harmful.

**Q. 65.** We are not aware of it.

**Q. 67.** Yes.

**Q. 71.** Yes, but suspension is often allowed by sympathetic zamindars. Zamindars never enjoy remission of revenue. In khas mahals, the office practice and rules are unsympathetic. The rules can be improved by giving wider discretion to local authorities.

**Q. 72.** Yield—Jute—21-24 maunds per acre; Paddy—15-18 maunds per acre.

Cost—Jute—30 per cent. of the gross income; Paddy—15 per cent. of the gross income.

**Q. 73.** Yes, on the decrease: Lack of manure, non-rotation of crops on scientific basis and want of agricultural education.

Government have not taken any steps worth mentioning.

**Q. 74.** *First part*—Practically nothing.

*Second part*—The procedure is cumbersome and the people are uneducated and untrained to appreciate modern ideas.

**Q. 76.** Yes.

No portion is known to be utilized in improving the agricultural conditions of these lands by the Government.

**Q. 80.** To the means suggested in the question I shall add education with special reference to agriculture.

**Q. 81.** We think it is one of the main reasons.

**Q. 82.** Planned industries. State-aided large factories may be one of the means but not the only one.

**Q. 83. Suggestions—**

- (1) Agricultural Banks.
- (2) Co-operative Societies (Agricultural).
- (3) Repeal of the Bengal Agricultural Debtors Act.
- (4) Substituting the same by a simple Act fixing maximum rate of interest for 15 years, providing for opening the transaction in case of old debts and gradual payment thereof and giving relief by remission in suitable cases, and leaving ordinary Civil Courts to deal with and dispose these matters as speedily as practicable.
- (5) Strict enforcement of law and order so that illiterate cultivators may not be inflamed with the idea that Court's decrees can be flouted or contract can be ignored with impunity.

No efficient organisation, in the modern sense of the term, Government or private exists, but the old village moneylender, controlled by a statute meant for both sides, can give substantial help.

**Q. 84.** We do not agree with the sweeping statement. It is forgotten that the agriculturists during the years of prosperity, vied with one another in getting money and paid them back gladly. The present situation arising out of acute all round depression can be met by a simple statute controlling rate of interest and allied matters.

**Q. 85.** Very little, rate of interest too high considering the present situation.

Have not benefited the agriculturists to any appreciable extent.

**Q. 86.** Debt Settlement Boards are rightly considered as machinery established for depriving money-lenders and landlords of their dues; it is full of defects. It should be repealed as it admits of no improvement.

**Q. 87.** May be tried, if they can be run on economic and self-supporting lines.

**Q. 88.** Practically nothing.

**Q. 89.** No.

No; it has now been very much simplified by the provisions of the Bengal Tenancy Act. Court fees on rent suits should be substantially reduced; at any rate no court fee should be charged on cess in claim.

**Q. 90.** Yes, as it is unsympathetic and has no personal touch as in the case of rent suit by individual landlords.

**Suggest—**

- (a) Abolition or substantial reduction of court fees in rent suits.
- (b) Establishment of Rent Court in each subdivision dealing only with rent suits.

**Q. 92.** Provision of compulsory sale without power of depositing money after sale under the Revenue Sale Law and Cess Act.

**Q. 93.** (1) Loss of money to the zamindar which he was used to get from a very long time.

(2) Incentive to tenants to transfer.

**Oral evidence of the representatives of the Dacca Bar Association, on  
8th March 1939.**

PRESENT ON BEHALF OF THE ASSOCIATION.

(1) Mr. Monmohan Das.

(2) Mr. Satis Chandra Mazumdar.

In reply to the Chairman, Mr. Mazumdar said that in his opinion the Permanent Settlement has been for the benefit of both the landlords and tenants.

As regards the reply to question 8, he reiterated his view that the trouble between landlords and tenants has been due to outside agency. The Chairman quoted from the Government of India's Land Revenue Policy to show that Government considered tenancy legislation necessary because the raiyats were suffering from poverty and were oppressed and rack-rented by the landlords. Mr. Mazumdar replied that a few landlords might have acted in this manner but that was no reason for penalising all of them by making a sweeping generalisation. He considered that poverty is not a result of the Permanent Settlement. The cultivators in Bengal are better off than those in other Provinces and it is possible to help them without revising the existing land revenue system. The fixing of the revenue at the Permanent Settlement is a factor which has contributed in keeping down the level of rent in Bengal. It is true that legislation may have been necessary to safeguard the tenants' interests. Government reserved that right in the Permanent Settlement Regulations; but it cannot be said that the Permanent Settlement was for the benefit of one class only. The landlords certainly had the advantage of extending cultivation and deriving the profits therefrom.

Much of the land was covered with jungle at the time of the Permanent Settlement, and while the tenants may have had some share in reclaiming lands from jungle, he thought that the landlords have had the major share.

Explaining his reply to question 25, he said that the phrase "actual cultivators" is very vague and if it was intended that the phrase should include bargadars, then rights could not be given to them. Occupancy rights belong to a particular class of tenants who cannot in some cases cultivate all their land. If they have to introduce bargadars to help in the cultivation of their land, there is no justification for giving occupancy rights to the bargadars. He thought that it was not quite correct to say that there was a growing tendency for occupancy raiyats to become rent-receivers. It would be more correct to say that there is a tendency towards an increase in the barga system. One reason for this increase is that fragmentation of holdings compels raiyats to seek an extra income by taking land in barga. Fragmentation has led to some deterioration in the economic condition of the tenants. One means of improving their condition is co-operative agriculture; another would be to increase the yield of agricultural produce. He was in favour of Government carrying out a programme of agricultural development. He thought that if such a scheme were put before the country and the country were satisfied with it, the extra expenditure would not be grudged. He was in favour of abolishing the Bengal Agricultural Debtors Act and substituting for it a simple Moneylenders Act which would restrict the amount of interest. Many moneylenders to-day would be glad to get back their capital without any interest. The Act, as it stands, is only deferring payment. It has dried up agricultural credit, which is essential in some form or other. He was in favour of developing the co-operative system through Co-operative and Land Mortgage Banks so that money can be obtained at a cheap rate of interest.

Mr. Das said that one defect of the co-operative system is that tenants do not get loans at the time of their greatest need, i.e., at sowing and harvesting times. Since the Bengal Agricultural Debtors Act was introduced, no loans have been available from mahajans and Government has not supplied any credit to replace them. He mentioned that in Madaripur subdivision, about 10,000 tenants went to the Subdivisional Officer's bungalow and complained that they could not get any credit to carry on agriculture. People do not like the co-operative system because they have to take with them two or three sureties even for small loans. There must be a more practical method of granting loans.

Mr. Mazumdar said that the Amended Law provides sufficient facilities for landlords to realise their rent. The procedure provided in section 148 is adequate and he would only suggest a reduction in the

amount of Court-fees and the establishment of Rent Courts in subdivisions. He agreed that it is essential for rents to be paid punctually and that to allow them to fall into arrears is bad not only for the landlords but also for the tenants.

In reply to Khan Bahadur M. Hossain, he agreed that the Permanent Settlement took away no existing rights from the raiyats. He did not however agree that the zamindars had no power to choose their tenants. During the Muhammadan period the zamindars were in existence. That would be clear from authorities like Field. He did not agree that it is the view of Justice S. C. Mitter in the Tagore Law Lectures that the raiyats were proprietors of the soil before the Permanent Settlement. Justice S. C. Mitter was considering the early Hindu times, when, according to Manu, the soil belonged to the man who tilled it. He said that many grants were given by the Moghul Government to persons who became *de facto* zamindars and exercised all the rights of proprietors. He agreed that Field's Digest classifies the zamindars into three classes: feudatory chiefs, zamindars proper, and collectors of rent. He thought that Chiefs like the Maharaja of Burdwan had lost some of their rights by the Permanent Settlement. They should have been on the same footing as independent States like Cooch Behar. He did not agree that the landlords had done little to effect improvements and to develop their estates. He pointed out that in 1793, the idea of economic development was very different from what it is to-day. He did not agree that landlords have started schools and hospitals only at district headquarters. It was not possible for him to give the percentage of landlords who have effected improvements; that is a matter of statistics.

As regards the last sentence of the reply to question 5, it could not be inferred from that reply that there was no order or good Government in the temporary-settled areas in other provinces; that was not the point. The preservation of law, and the development of a sense of security were the main reasons which prompted the Governor-General to make the Permanent Settlement, and the country then settled down to an era of peace and prosperity. In Bengal the situation prior to the Permanent Settlement was very acute and chaos prevailed.

In reply to a question interposed by Khan Bahadur Momin, he said that at that time zamindars were in charge of the administration, both civil and criminal.

Continuing to Khan Bahadur M. Hossain, he did not agree that the country is suffering on account of the Regulations, passed in times of necessity, whereby 80 per cent. of the rents is intercepted by landlords and tenure-holders. At the time of the Permanent Settlement, the Paramount Power thought that peace and security would ensue as a

result of this measure which would be for the benefit of the whole community. The possible financial loss was taken into consideration at the time and the percentage of the revenue was fixed at a very high figure. The extension of cultivation has not only increased landlords' profits, but has also been beneficial to the country, and this is due mainly to the landlords. He agreed that before the Permanent Settlement revenue was variable and was about nine-tenths of the assets. He did not agree that Lord Cornwallis considered only the interests of the East Indian Company; it is clear from all his writings at the time that he also considered the interests of the country.

As regards the reply to question 8, he mentioned electioneering propaganda, as an outside agency, responsible for the trouble between the landlords and tenants. There has been a regular agitation against the payment of rents. He agreed that in some cases landlords have relied too much on their officers to the detriment of the tenants.

As regards the reply to question 16, he said that in Bengal, the middle classes have developed to a much greater extent as a result of the Permanent Settlement than they have in other provinces. In other provinces, the middle classes were practically non-existent at the time when Bengal was developing her middle-class. He did not agree that other provinces are ahead of Bengal in industry. Bombay might be ahead, but not the other provinces. As a result of the sense of security derived from the Permanent Settlement, the people in Bengal have invested chiefly in land. Any change in the Permanent Settlement would be disastrous to the middle classes. He did not agree that because investment has been largely in land it can be said that the Permanent Settlement is responsible for retarding industrial development—that was also due to foreign competition.

As regards subinfeudation, he said there may have been some landlords who wanted to get rid of the trouble of collecting rents, but it could not be said as a general proposition that subinfeudation is due to this reason. He agreed that after a proprietor has granted a tenure, he ceases to remain in personal touch with the tenants. We knew of no case where tenure-holders had come in and had immediately enhanced rents. He agreed that the margin of profit of tenure-holders is smaller than that of zamindars, but did not agree that tenureholders have done nothing for their tenants. They are in closer touch with the tenants, and he knew of cases where they have started schools, etc. The smaller tenure-holders of course can do little as they are practically in the position of tenants.

Bargadars are almost in the position of labourers. The share of produce and the financing of agriculture is a matter of contract between the bargadar and the raiyat landlord. He did not agree that the raiyat landlords do not finance agriculture, because by giving their land to be

cultivated by the bargadar, they are contributing something. He did not agree that tenants who cultivate through bargadars are non-agriculturists.

Explaining the apparent discrepancy in the reply to question 37, he said that it would be impossible to distinguish between agriculturists and non-agriculturists in the matter of transfer, but he was not in favour of the unrestricted right of transfer, and suggested that some form of restriction, such as payment of selami, should be imposed. He was not in favour of reducing high contractual rents as it would be against the sanctity of contract. He thought that the main reason for the decrease in fertility is lack of agricultural education. He would have no objection if Civil Court process fees are reduced as well as Court-fees. He did not agree that tenants only sell their lands from sheer necessity; they also sell in order to get money for marriage ceremonies, etc.

In reply to Khan Bahadur Hashem Ali Khan, he agreed that Government should be for the greatest good of the greatest number and that in times of emergency, the well-to-do minority should make sacrifices for the majority. The economic condition of the cultivators is bad and social services should be improved. He thought that money will be forthcoming if any clear programme for the development of social services were put before the country. Administrative expenditure should be reduced to the minimum and Government should float a loan for its programme of development. No scheme, except the Primary Education Act, has ever been put before the country. He did not agree that the main source of lawyers' income is derived from landlords; the major portion comes from ordinary people including the tenants.

In reply to Khan Bahadur Momin, he agreed that Todar Mal's assessment was based on the produce of every bigha. Mir Kassim's assessment was also based on the jamabandi system. Murshid Kuli Khan attempted to do away with the zamindars for two or three years and tried to collect rents direct but his attempt failed. After the Permanent Settlement, the zamindars were given police duties and had to provide rations for troops. The above considerations do not lead to the conclusion that zamindars were officers of Government. Before the Permanent Settlement, they virtually exercised all the rights of proprietors and these were confirmed by the Permanent Settlement. He thought they were more "zamindars" than "officers". He has read Mr. Ascoli's Settlement Report of Dacca district. He did not agree that the report indicated the existence of bad feeling between the landlords and tenants generally though there may have been a few such cases.

He agreed that Government income would increase if the landlords and tenureholders were removed; but Government might as well raise money by forfeiting promissory notes. If the landlords and tenureholders were removed he did not think that litigation would necessarily decrease. It might be correct to say that much litigation is connected with land disputes, but litigation has continued in provinces where there is no Permanent Settlement. Even if the landlords and tenureholders are removed, there are other rights which will spring up and become the subject of litigation.

In reply to Dr. R. K. Mukherji he said that he is a member of the Executive Committee of the Dacca Bar Association and helped in drafting the reply to the questionnaire.

The level of rent in Dacca is about Re. 1 per kani (one kani is equivalent to .33 of an acre); the average is thus Rs. 3 per acre. The outturn depends on the quality of land. Figures for outturn are given in the reply and he estimated the value of the gross produce at Rs. 44 or Rs. 45 an acre. The rent would therefore be 1/5th of the gross produce.

No additional assessment is made on a second crop. Rents are generally lump rents and enhancement suits in Dacca are rare. This does not necessarily mean that there is a tendency for rents to become fixed. The economic condition of the cultivators should first be improved by increasing the yield of agricultural produce. It might then be possible for the landlords to obtain enhancements and it would be for the courts to decide what would be fair rent. Over-population and fragmentation of holdings are the main causes of the present economic conditions. Other factors are the low yield and the absence of marketing facilities. Part of the sale-proceeds goes to middlemen and the tenants do not get the full value of their produce. All these suggested improvements can be carried out without altering the Permanent Settlement. The fall in prices is another factor affecting the economic conditions but he thought it more important to provide first of all for increased yield and marketing facilities. The tenants can get reduction of rent on account of fall in prices under the existing law. The tenants are inclined to incur debts unnecessarily. The object should be to educate them in thrift so that they will not incur debts except for essential requirements. Co-operative loans are not taken because it is difficult to get two persons to act as sureties. He was in favour of granting short term loans for agricultural purposes but thought that there might be difficulty if the crop failed, when the tenants would be unable to repay.

In Dacca cultivators are out of work for nearly six months in the year. During that period they make some income by plying boats and fishing. Cottage industries should certainly be encouraged. Dacca

Muslim is no longer made because foreign competition has killed it. The Co-operative Department introduced weaving in Dacca district and for some years it was successful. A national programme for the development of home industries should be undertaken. The conchshell industry is now hard hit; at one time it was in a flourishing condition and the Madras Government supplied lakhs of rupees worth of conch-shells. He thought that weaving is the most suitable home industry.

In reply to Sir Frederic Sachse he explained that when he advocated agricultural credit for the "cultivators" he referred to raiyats, under-raiyats and bargadars. The great majority of bargadars have raiyati lands and supplement their income by barga cultivation. They could therefore borrow on the security of their raiyati land and on their share of the barga produce.

Sir Frederic Sachse pointed out that land mortgage banks will not lend money to any one who has not a complete occupancy right in the land. Mr. Mazumdar agreed, but said that most bargadars have also got raiyati land. He thought that many tenants are in a position to repay their debts but are hanging back.

As regards his proposal to have a simple Moneylenders Act, he said he was in favour of leaving it entirely to the Civil Court to decide what instalments should be given and who should be adjudged insolvents. Debt Settlement Boards are only a means of deferring payment. The Bengal Agricultural Debtors Act is cumbrous and cannot be properly worked. The existing occupancy raiyats derive their rights partly from the old khudkasht raiyats, but in more modern times he agreed that the tenants have to pay a premium for getting settlement of lands in raiyati right.

In reply to the Maharajadhiraja Bahadur of Burdwan, he said that under section 52 of Regulation VIII of 1793 the words "remaining lands" refer to the uncultivated and waste lands at the time of the Permanent Settlement, and the meaning of the words "to let" is that the zamindars had full power to settle such lands. The Permanent Settlement thus gave full powers to the zamindars to choose their tenants. He thought that in Dacca division, the expectations of the Permanent Settlement Regulations have been fulfilled. He thought that the imposition of a tax on non-agricultural land would not be a breach of the Permanent Settlement. In such cases the land has ceased to be agricultural. There has been a Privy Council ruling, in which the point was discussed, and the decision was that the Permanent Settlement does not exempt landlords from the general scheme of taxation. To tax such lands might however be against the spirit of the Permanent Settlement. He would not support State-landlordism as opposed to private landlordism unless he was certain that the scheme for improving the economic conditions of the country would be carried

out; in any case, he was against the abolition of the Permanent Settlement. He thought that some cottage industries could be revived and weaving which had been successful in Dacca, would be most beneficial.

He was not in favour of granting certificate powers to landlords. His experience is that it is mechanical and operates harshly on the tenants. Civil suits take longer, but can be amicably settled. He agreed that the abolition of the Permanent Settlement would wipe out the middle classes and bring about a social revolution.

In reply to Mr. B. K. Roy Chowdhuri he agreed that many estates were put up to revenue sales after the Permanent Settlement but he thought this was due rather to the stringent sale regulations than to the high assessment of revenue. He also agreed that for many years after the Permanent Settlement zamindars made no profit from their estates and in some cases they were a losing concern. He would not regard the subsequent increase in zamindars' income as unearned income.

In reply to the Secretary he said that he thought khas mahal tenants are worse off than tenants in permanently settled areas because there is not the same personal touch between the landlord and his tenants and because tenants in khas mahal estates do not get remission and suspension of rents to the same extent. He agreed however that, nowadays remissions may be given in khas mahals. He did not know whether there is a regular programme for improvements in khas mahals.

In some cases civil suits have been disposed of more speedily as a result of the amended legislation.

He considered that the cost which a tenant has to pay in civil court procedure is not more than that payable in certificate cases as tenants frequently engage lawyers to defend them before Revenue Courts.

**Reply by the Dinajpur Bar Association.**

**Q. 1.** We do not agree that the objects of the Permanent Settlement have been correctly stated.

Historically, in our view, the main object of the Permanent Settlement was the consolidation of British power in Bengal.

The description of the duties and obligations of the zamindars are not exhaustive. The authors of the Permanent Settlement expected that the main duty of the zamindars would be to give loyal support to all acts done by the officers in charge of the administration of the country.

We do not think that the Permanent Settlement took away any existing rights of the tenants.

**Q. 2.** The Permanent Settlement recognised the proprietary right of the zamindars to the soil. The right to choose tenants is dependent upon the proprietary right.

But it does not follow from the above that the Permanent Settlement conveyed this power to the zamindars.

Some of the big zamindars of Bengal exercised the rights of semi-independent chiefs before the advent of the British. These zamindars were the absolute owners of the soil. It is difficult to say what the rights of the small zamindars and talukdars were. But it seems the tenants were completely at their mercy.

As regards the right to regulate the usage of the land to the economic interest of the province, we do not think there is any reason to suppose that the Permanent Settlement conveyed this right and the zamindars had no such right from before the Permanent Settlement.

**Q. 3.** The landlords have played some part in the economic development of the country by excavating big tanks for irrigation purposes and for supplying drinking water to men and cattle, also by helping tenants by giving them loans of money and paddy on easy terms, by making free distribution of paddy and rice amongst the poor tenants during scarcity and by such other means. They have also made large contributions for establishment of hospitals and educational institutions. They have also made rent-free grants for the maintenance of religious institutions and meritorious persons. They have made temples and mosques, debattar and waqf properties, brahmottar and pirpal tenures. These acts also led indirectly to the economic development of the country.

They failed to perform the functions expected of them chiefly, we think, owing to their anxiety to please the Government officials in various ways necessitating a constant demand upon their purse.

**Q. 4.** The zamindars exercised the powers of actual proprietors for all practical purposes, although the term actual "proprietors" might not be strictly applicable to them in the English sense. They were not mere collectors of revenue before the Permanent Settlement.

**Q. 5.** We do not subscribe to the view indicated in this question. In our opinion the question of a solemn pledge does not arise, or at any rate, is not very material. In the year 1793 the East India Company entered into a contract with the then zamindars in order to facilitate the realisation of revenue. The then zamindars were in direct touch with the tenants and the East India Company which was a trading company and anxious to ensure the easy realisation of revenue, entered into a solemn contract fixing the revenue of the zamindars permanently. The tenants do not by any means enter into this picture at all. With the gradual growth of political consciousness of the people and the demand for Swaraj the administration of the country is gradually passing into the hands of the representatives of the people and the feeling is growing that whatever might have been the condition of things when the Permanent Settlement was made, the same state of things does not exist now and the policy followed by the Britishers so far back as 1793 when they were attempting to get a firm hold of the country, cannot now be tolerated. The peoples' representatives who have taken up the reins of administration now rightly feel that as there has been a great rise in the earnings of the zamindars since 1793 there is no reason why the State will be deprived of a share of this increase. Lord Cornwallis as Governor-General issued a proclamation to the zamindars. The people of the country had no voice whatever in this transaction. The right of the British people to hold sway over the people of this country is now disputed. Naturally, therefore, the acts done by the Britishers to get a permanent footing in this country as the Paramount Power is also disputed. We do admit that the Permanent Settlement has crippled the financial resources of the country to a considerable extent by depriving the State from having a share of the unearned increment of the income of the zamindars.

**Q. 6.** The zamindars have been and are enjoying the fruits of their management. It is difficult to say whether the expectation of the authors of the Permanent Settlement has been fulfilled and if so to what extent.

The large increase in the area brought under cultivation is, in our opinion, due to all the three circumstances mentioned in the question.

**Q. 12.** There are really two questions—

- (1) abolition of the zamindary system including the abolition of all middlemen between the actual cultivators of the soil and the State, and
- (2) abolition of the permanent settlement of land revenue fixed in 1793.

As regards the abolition of the zamindari system, we have considered the points advanced against it but we are of opinion that the zamindari system cannot be abolished on account of the following reasons :—

(1) A tremendous revolutionary change in the land revenue system of the country is not called for.

(2) The abolition of the zamindari system including the abolition of all tenures, under-tenures, talukdari, jotedari and other subordinate tenures, will result immediately in depriving a very large number of people of rights which they have acquired by the investment of large sums of money and which they have enjoyed from generation to generation.

(3) The majority of the middle class people of Bengal, both Hindus and Mussalmans, will be deprived of their means of subsistence.

(4) A very large number of people will be thrown out of employment and the most vexed question of unemployment will be tremendously increased.

(5) It is the middle class of Bengal that has contributed to the cultural, economic, religious and social development of the country and it is this class which is responsible for the growing political consciousness of the people. The principal means of subsistence of this class is land. To deprive this class of people of land will mean their extinction. We oppose this.

(6) As a result of the zamindari system debattar and waqf properties have been created and brahmattar, pirpal and other grants have been made, which cannot be abolished without bringing about disastrous consequences.

The above are some of the main objections. There may be others.

As regards the abolition of the Permanent Settlement we are not in favour of the idea. We do favour the view that the zamindars are paying land revenue to the extent of about 3 crores, while the raiyati assets come up to about 12 crores and leaving a sufficient margin for collection charges, etc., the zamindars are making a profit of about 7 crores of rupees, more or less. The State is getting no

benefit of this increase in the raiyati assets and it is just and fair that the State should have some share of this increase. This however can be accomplished by the imposition of income-tax on the income from lands. The tax will not touch the poor people as the minimum assessable income can be fixed by taking all circumstances into consideration. This method will not necessitate the solution of the most vexed question of giving compensation to zamindars and tenure holders in the event of their right being purchased by the State. There is no reason why the State will take such a heavy liability which may permanently cripple the financial position of the State. In Bihar income-tax on agricultural incomes has been imposed. Of course the amount should be earmarked entirely for the economic improvement of the agriculturists.

**Q. 28.** Lands used for homestead and lands used for other purposes on which permanent structures have been built should have the same fixity of tenure as of agricultural lands. The right to eject the tenants from such lands at the sweet will of the zamindars should be abolished. Enhancement of rent of such lands should not be arbitrary but subject to rules laid down by the statute as in the case of agricultural lands.

**Q. 33.** The barga system is economically sound in this sense that poor people who have no means to acquire lands earn their living by this system. They merely supply the labour.

The capital is supplied by the owner of the jote. The bargadar gets a share as a price of his labour. He has no interest in the land. He is not a tenant and the question of granting occupancy right to him does not arise.

One-half of the total produce is a fair proportion for the bargadars.

**Q. 37.** Passing of agricultural holdings into the hands of non-agriculturists cannot be prevented.

**Q. 38.** If by economic holding is meant one which is considered sufficient for the maintenance of a family consisting of say 5/6 members, consisting of a man, his wife and 3 children, we think that the requirements of the family can hardly be met entirely from land which one man can cultivate himself. The quantity of land which a man can cultivate with one plough is generally between 12 to 15 bighas which is technically called one 'hal' of land. But the produce of one 'hal' of land is not sufficient to meet the requirements of the whole family. There must be a subsidiary income. The main question therefore is how to increase the income of the agriculturists by employing them in home industries. They are not employed on land all the year round and they can certainly make some earning during idle hours. If this is not provided for, the economic condition of the peasantry cannot be improved even if the holdings are made rent-free.

**Q. 46 to 71.** These question relate to the subject of fixity of rent, enhancement of rent and reduction of rent.

One hundred and forty-five years have passed since the time of the Permanent Settlement. We are not aware that there are any records to show what were the rates of rent prevailing at the time in the different zamindaries.

Enhancement has been made by contract and on the ground of the increase of area of the holding. It is difficult, nay impossible, to get at the state of things existing at the time of the Permanent Settlement.

Besides, the question of reduction of raiyati assets and appropriation of a certain share of the increased assets cannot go together. The State requires money. A portion of the increment in the assets can be utilised for State purposes. A general and wholesale reduction cannot therefore be contemplated.

**Q. 80.** We generally agree with the suggestions made.

**Q. 82.** We don't advocate large factories but we are in favour of cottage industries to give employment to agriculturists.

**Q. 87.** We think that Government should establish agricultural banks in every union.

**Q. 90.** Yes—harassing—reasonable time ought to be given to the tenants to make payments of rents.

## Reply by the High Court Bar Association.

**Q. 1.** This Association generally speaking does not desire to deal with questions which are mainly enquiries as to past history of the land revenue and tenancy legislation of this province. So far as that history is clearly and definitely known this Association does not think it need deal with them. So far as that history is doubtful and controverted this Association is of opinion that any answer would not turn so much on historical truth and accuracy which it may be difficult to establish satisfactorily but on sympathies of people on one side or the other. But this Association takes this attitude principally for the reason that it does not think that this past history should to any considerable extent affect the present policy of the land revenue and tenancy legislation. This should depend almost exclusively on what may be necessary and beneficial to the nation at the present time and in near future.

**Q. 2.** (i) It is difficult to feel sure what the statement really means. Certainly 80 per cent. of the total produce of the land does not go to the zamindar. If the statement means that 80 per cent. of the rent paid by the cultivating raiyats goes to the zamindar the Association is not sure about the percentage. But it is clear that between the zamindar and the middleman is absorbed a very high percentage of the rents paid by the raiyats.

Therefore the Association does not think that this criticism if it really means what it says is justifiable.

(ii) The Association is of opinion that as a natural result of the security given by the Permanent Settlement against enhancement of revenue it would have a tendency to encourage to subinfeudation. But this Association does not think that this is the only cause of subinfeudation of tenancies in the province.

(iii) The Association does not think that the permanency of the revenue demand by the Government has led to enhancement of raiyati rents. It is difficult to see why the Permanent Settlement should lead to that effect. *Prima facie* the effect would be in the contrary direction. The expectation expressed in paragraph 6 of the Permanent Settlement Regulation as to the effect of "the public assessment being fixed for ever" on the demands of the zamindars and the raiyats has to a certain extent been realised. In any event the Association thinks that the pressure on the raiyats would have been far greater had the land revenue demands been not fixed as made by the Permanent Settlement.

The Association is of opinion that this criticism is not justifiable.

(iv) If by a system of overlordship is meant subinfeudation of tenancies it is true as already pointed out in answer to (ii) but mere subinfeudation would not have any appreciable tendency in increasing the harassment and oppression on the actual cultivators.

If the question really means that the zamindary system, permanent or temporary, is harassing and oppressive on the cultivators because they have a landlord of their tenancies, the question is not capable of a simple answer. The cultivators at the time of the Permanent Settlement being poor and unorganised did suffer acts of harassment and oppression in the hands of many of their landlords.

But this harassment and oppression had nothing to do with the Permanent Settlement of the land revenue. The Association is definitely of opinion that had the Settlement been temporary the harassment and oppression would have been far greater. The Association is not sure that here there is not some confusion between the zamindari and the Permanent Settlement.

**Q. 12.** The abolition or otherwise of the Permanent Settlement is a matter to be judged by considerations more fundamental than the ground set forth in question 11.

**Q. 13.** The Association thinks it quite clear that as a result of the Permanent Settlement the zamindars absorb a large percentage of the rent paid by the raiyats. If to the income derived by the zamindars be added the profits derived by the middlemen from the rents paid by the raiyats the percentage of the raiyati assets absorbed by the zamindars and the middlemen would be considerable. The Association cannot be sure as to the exact amount thus intercepted.

Of the three methods suggested for increasing the revenue of the State by taking to itself a larger proportion of the raiyati assets than at present the Association is of opinion that the only course which would be wise and practicable is the third suggestion, viz., the imposition of a tax on agricultural income. The Association is of opinion that the method of income-tax on agricultural income in order to be workable and just should be a tax on all agricultural income above a certain minimum figure which would exclude actual cultivators of poor and moderate income but would include the zamindars and prosperous middlemen and those who would go in for farming on a large scale, as also cultivators making income above the specified minimum.

The Association thinks that the adoption of even this third course at the present time and under the present conditions will be an extremely hard and onerous burden upon the zamindars, the tenure-holders and prosperous cultivators to bear.

The Association further thinks that the adoption of even the third course in near future will inevitably and automatically lead to the abolition of the zamindari system which the Association would deeply regret. So far as the cultivator is concerned the system of agriculture prevalent at the present time is merely a bread-earning proposition with him which is insufficient or barely sufficient to keep him going living from hand to mouth. If the zamindar is squeezed out and the cultivator starves the question of the tenureholder may be left out of account.

The Association is of opinion that the adoption of this third course should therefore be deferred for at least such a period as would be necessary to improve the system of agriculture by adoption of scientific methods, and improvement of irrigation, and financial credit of the cultivator with funds supplied if necessary by the State from resources other than land revenue. After this period it is hoped that the zamindar, tenureholder and the cultivator will be in a position to bear the burden of an additional tax which the State will be in a position to utilise for the improvement of the province.

As regards suggestion (1), viz., the total abolition of the zamindari system the Association is opposed to such a course at the present moment. The chief reason which weighs with the Association is the present condition of the agriculturists of Bengal. They are so illiterate, poor and unorganised that direct settlement with the State which could only be worked by innumerable petty Government officers would lead to acts of oppression against which the cultivators would be more helpless than at present with their dealings of the officers of the zamindars. The Association is of opinion that the cultivators should be made literate and more organised before they are brought in direct contact with the State. If and when income-tax is levied on agricultural income it is hoped that a considerable portion of the money realised by the State should be spent for the education and organisation of the agriculturists.

As regards the second suggestion, zamindari settlement with temporary land revenue is a measure to which the Association is definitely opposed. The evils of such a system are well known and in fact constituted one of the reasons for substitution of the Permanent Settlement in place of temporary settlement. Such a system would inevitably lead to oppression of the agriculturists.

**Q. 25.** The Association is of opinion that the tenant actually cultivating the soil, however low his position might be in the hierarchy of tenants, must have occupancy right secured to him. The proposal of confining such occupancy right to such cultivators only is one of great practical difficulty. A person may begin by actually cultivating his tenancy and properly becoming an occupancy raiyat and then

ceasing to cultivate it either wholly or in part by letting out to another raiyat. An attempt to deprive him of occupancy right in the whole or part of his tenancy would require a complicated legislation and may lead to profitless litigation.

**Q. 26.** The Association is therefore of opinion that occupancy right should at least be given for the present to more than one tenant.

**Q. 26.** It is the difficulties of legislation and its practical working which this question indicates has led the Association in answer to question 25 to suggest that occupancy right should be granted to more than one grade of tenants.

**Q. 27.** The Association cannot find anything in the Permanent Settlement Regulation on which any definite opinion about the intention of the Regulation on the matter can be based.

But the Association thinks that occupancy, i.e., non-ejectable right should be given to tenancies of the nature enumerated in the fourth exception of section 37 of Act XI of 1859 (the Bengal Land Revenue Sales Act).

**Q. 28.** There is no reason why protection to cultivators should persist in land converted for non-agricultural purposes except the practical difficulty of getting rid of tenancy right originally purchased or acquired. But the Association thinks that additional tax should be levied on such converted holdings and the basis of the taxation should be the then market value of the land.

**Q. 29.** This is a matter of statistics. The Association has not materials on which it can definitely say whether the number is really on the increase or not.

**Q. 30.** If as a matter of fact the number of bargadars, etc., is really on the increase; the factors mentioned in (i), (ii) and (iii) would logically have a tendency to contribute to such increase. The question of deciding in what proportion the supposed increase may have been caused by these factors is a matter of still more difficult statistics and the Association is not in a position to give any opinion.

**Q. 31.** The Association does not think that the first part of the question is capable of any definite answer as the area held by different bargadars varies enormously.

The Association is not in a position to say whether the majority of bargadars hold also raiyati or under-raiyati tenancies but undoubtedly many bargadars do so.

**Q. 32.** The use of the term "bargadar" is not free from ambiguity.

When a person allows another to cultivate his land in return for a share of the crops contributing nothing to the production of the crops he is merely a landlord of the land and receives the agreed share of the crops merely because he is the owner of the land. Though this is really letting out the land to a tenant at rent in kind this system is sometimes called barga. The Association thinks that in these cases the reality should be recognised disregarding the name, i.e., the so-called bargadar should be recognised as a tenant and right of occupancy and other rights of a tenant should be extended to him and right should be given to either party to have the rent commuted to money.

The barga system is properly so-called when the person owning the land contributes some other factors to the production of the crops than merely the supply of the land, e.g., contributing the seed or the plough and the other costs of cultivation in whole or in part. In such cases the system should really be looked upon as a partnership between the owner of the land and the bargadar for the production of the crops. Having regard to the backward and unscientific condition of agriculture in our province and also to the illiteracy and poverty of the actual agriculturists encouragement should be given to such partnerships for actual cultivation and production of crops as would invite or at least make possible for men with means and intelligence to join with actual agriculturists for production of crops. In such barga cultivation the respective rights of the parties should be regulated by the law of partnership modified so far as may be necessary for the protection of the parties.

**Q. 33.** In answering question 32 the Association has already expressed its opinion that the so-called barga system which is really a name of tenancy with rent in kind has no economic foundation whereas the genuine barga system, viz., partnership for production of crops is economically sound and deserves extension.

It has already been pointed out the first class of so-called barga system should be abolished by making bargadar a tenant in all respects.

**Q. 34.** In answer to question 32 the difficulties raised in this question have already been met. The Association thinks as already pointed out that distinction should be realised between two actually different systems going under the common name of barga. When that distinction is realised by an appropriate legislation made for two different kinds of relations no difficulties would remain unsolved.

**Q. 35.** With respect to what has been called previously so-called barga there is no reason why generally speaking such bargadars who are really tenants pay more than usual rents for such lands.

With respect to barga in the sense of partnership as explained above it may be necessary to lay down principles on which profits are to be

divided between the respective parties. Obviously the proportion would vary considerably according to the nature, terms and other conditions of cultivation.

**Q. 36.** So far as it is a matter for statistics the Association has not got sufficient materials for any satisfactory answer. But it desires to point out that wages of agricultural labourers vary very considerably in different years and in different parts of the province and it may not be possible after all to make any satisfactory comparison with the position of bargadars and under-raiyats.

**Q. 37.** Right of unrestricted transfer given to agriculturist must as a matter of course lead to the passing of some raiyati lands into the hands of the non-agriculturists. Whether as a matter of fact as the result of the Act of 1929 considerable areas have so passed cannot be determined without actual statistics. But the Association desires to point out that previous to the Act of 1929 non-transferability of raiyati holdings only meant transferable with the consent of the landlord and that consent could with very few exceptions be purchased by payment of nazar to the landlord. Instances of landlord not recognising the transferee because the latter was a non-agriculturist did not occur possibly in one instance out of one thousand. The Association therefore does not think that the law in force before 1929 was a bar to raiyati lands passing to the hands of the non-agriculturists or that the Act of 1929 as also the Act of 1938 have made that tendency to any extent greater than in the past.

The Association is of opinion that it is not now possible to take back the right of unrestricted transfer given to the raiyati or that any such attempt would be wise or politic. The Association further thinks that it is neither desirable nor practicable to restrict the transfer to the agriculturists. This will only lead to a restricted market and hence inadequate price to the needy raiyat. The remedy, so far there is any, is always to secure occupancy and other rights of a tenant to the actual cultivator to whom the non-agricultural purchaser lets out the land for agriculture.

**Q. 42.** The Association thinks that in the present stage of agriculture in our province scientific cultivation of large areas under one control should be encouraged and at present it is not necessary to put any restrictions to the maximum limit of such areas.

But if the evil which is indicated in the question means that raiyati holdings would be acquired by one person not for the purpose of large scale scientific farming but for merely using the land as landlord and at the same time depriving the actual cultivators of the rights of a tenant the Association thinks, as already pointed out in answers to questions 25 and 32, that the remedy lies in giving right of occupancy and other rights of a tenant in all cases to the actual cultivator.

**Q. 43 and 44.** Coparcenary by leading to fragmentation of agricultural tenancies is certainly detrimental to good cultivation. But the Association does not think that any practical remedy can be given by mere legislation. The real remedy is to demonstrate to the cultivators the beneficial effect of cultivation of economic holdings. The Association thinks that if such demonstration be convincing the cultivators themselves would be willing to provide themselves with such economic holdings on voluntary basis. In such condition special facilities may be provided for consolidation of holdings by exchange or otherwise as contemplated in question 41.

**Q. 45.** The Association thinks that the question really means "arrangement for collection" by a common agency. A tenant is not bound unless he has agreed to do so to pay rent separately to co-sharer landlords. The tenancy is one so far as he is concerned and he is only bound to pay the whole rent jointly to all the co-sharer landlords.

This necessarily compels the co-sharer landlords to arrange for collection of rent jointly.

If the question implies that the tenants' contract to pay rent separately to the co-sharer landlords should not be made binding on them and that all separate collection of rent by co-sharers which obtains at present should cease, the Association does not think that there is any evidence of the evils of such separate collection being enormous and past contracts by tenants should be interfered with.

**Q. 46, 47 and 48. I.** If by the term "contemplated" used in questions 46 and 47 and by the term "meant" used in question 48 what is asked is a question of the legal interpretation of the Permanent Settlement and connected Regulations the Association thinks that it is not possible according to ordinary canons of legal interpretation to deduce the conclusion that the Regulations legally barred the rights of the zamindars to enhance the rents or rate of rents payable by tenants at the time of of the Permanent Settlement. For if that was the intention meaning thereby intention expressed or necessarily implied by the words used of which only law can take notice nothing would have been easier to say so definitely in the Permanent Settlement Regulation itself. On the contrary the language of Article 6 of the Permanent Settlement Regulation by expressing "hope and expectation of the Government, of the good faith and moderation of the zamindars towards the tenants" is not consistent with legislation in bar of enhancement of the rents then being paid. Further when Article 6 speaks of the benefit to the zamindars of enjoying "exclusively the fruits of their own good management and industry" it does not appear that it was excluding the idea of getting more as rent from lands already let out to tenants.

Article 7 of the Permanent Settlement Regulation reserves the right of the Government to make laws "for the protection and welfare" of the various grades of tenants. That right of the Government was expressly reserved as the Article itself says "to prevent any misconstruction of the foregoing Articles". This is a reasonably clear indication that the Permanent Settlement Regulation itself did not by its own provisions secure the rights of the tenants to hold at the rent or rate of rent at which they were paying at the time of the Permanent Settlement.

Subsequent legislation providing for restrictions against enhancement of rents at the discretion of zamindars proceeded not on the footing that by demanding increment of rent zamindars were violating any terms of the Permanent Settlement but on the footing that the Government was exercising the right for protection of the tenants which it reserved in the Permanent Settlement Regulation itself. There is nothing clear and undisputed to show that view of the Government in its subsequent legislation was wrong.

From section 6 or section 50 of the Bengal Tenancy Act which came into the Act from sections 3 and 4 of Act X of 1859 it will be unreasonable to conclude that the legislation made the rent paid at the time of the Permanent Settlement unalterable because the rent was unalterable at the date of the Permanent Settlement. The alternative view is the more reasonable, viz., that rent which has remained unalterable for such a long period should not be allowed to be disturbed. Indeed it is an application of the same principle by which a contract for fixity of rent at the origin of the tenancy is presumed from payment at an unalterable rate from a long time. As a matter of fact it was merely a legislative device for securing fixity of rent to old tenancies held at an unaltered rate. The presumption of the continuance of the tenancy from the Permanent Settlement from only twenty years' occupation at an unaltered rate was obviously one not of logic but of legislative policy.

II. If the questions ask what the framers of the Permanent Settlement Regulation hoped and expected as a result of their policy the matter is entirely historical and in accordance with the view already expressed at the beginning of its answer to the questionnaire, the Association does not desire to discuss the matter. But it wishes to reiterate its view that it is not worthwhile by settling questions of disputed history that the present policy of agrarian legislation of Bengal should be settled. It should depend to some extent on the existing law on which the expectations and anticipations of the present generation of landlords and tenants are based and to a very large extent on what is required by the necessities of the present and future welfare of the country as a whole.

**Q. 49.** The Association thinks that in discussing and settling the question of the proper and reasonable rent which the tenant should pay at present it is irrelevant to consider the "intention of the framers of the Permanent Settlement". The question itself in its various parts sufficiently indicates the impracticable nature of going back to the Permanent Settlement for the purpose of adjusting the rents payable by the tenants at the present time. The grievance which the tenants may feel as to their rate of rent relates to the pressure which they feel at the present time, viz., an economic grievance and not the historical grievance that the rent which was really unalterable at the time of the Permanent Settlement has been since altered against the provisions of that Settlement.

The last part of the question is better answered in connection with the answer to some of the latter questions especially questions 52 and 56.

**Q. 50.** Already dealt with in reply to questions 46 to 48.

**Q. 51.** The Association does not think that there is any solid foundation for the supposition. But it is further of opinion that the question of rate of rent to be paid at present of what was waste land and what was tenanted land at the time of the Permanent Settlement should be answered from the same point of view of what is fair and equitable at present. There should be no distinction in the question of rent at present fair and equitable on the ground that the land was tenanted or not tenanted at the time of the Permanent Settlement.

**Q. 52.** The Association thinks that the following principles should be applied in determining fair and equitable rent in Bengal:—

(I) The rent should not exceed a proportion of the price of the crops (taking average of a fixed number of years) minus the cost of cultivation (taking an average).

(II) The rent so fixed will be liable to enhancement by a suit on the grounds indicated in section 30(b), (c) and (d) of the Bengal Tenancy Act subject to the rule of proportion stated in (I).

(III) Any further readjustment of rent due to agricultural prosperity or the necessities of the State should be left to future which can be expected and hoped to be a distant future.

**Q. 53.** So far as one can see the present current rent started from a sort of customary rent and has been affected, considerably in some parts of the country, by competition depending on the great demand for land growing crops of high money value.

On whatever area basis rent might have been fixed at the origin, at the present time the majority of rents are treated as lump rents when they come before courts of law.

The Association thinks that though there might be exceptions for special reasons the rates are practically the same for lands of similar value in the same locality.

**Q. 54.** If it is a question of first settlement it does not appear that poorer and weaker tenants would take settlement at a higher rent than the richer and the stronger ones. Rather the contrary would seem to be the case. But it is possible and is probably the fact that when the landlord tries to enhance the existing rent the poorer and hence weaker tenants are more easily induced to agree to enhancement than the richer and therefore the stronger ones.

The factors mentioned in question 53 have really fixed the existing rents in Bengal. But these factors have varied considerably according to economic and other circumstances.

**Q. 55.** The Association would recommend the adjustment of rent in the line of the principle mentioned in answer to question 52.

The Association does not think that the readjustment could be entertained without an enquiry undertaken for this purpose.

**Q. 56.** As regards question 56, I would like to fix the proportion half and half instead of  $\frac{1}{3}$  and  $\frac{2}{3}$ .

**Q. 57.** This question has already been answered in reply to question 52. See answer (iii) to that question.

**Q. 58.** It seems that the question assumes the abolition of the zamindari and the subordinate tenures leaving the State to raise revenue from agricultural lands directly from cultivators. The Association in its answer to question 13 has already given reasons why at present it cannot recommend such abolition and therefore it does not think it necessary to discuss this question. But it desires to point out that apart from the consideration indicated in the second part of the question the elaborate enquiry which would be necessary every year to find out the assessable income of each agriculturist, the majority of whom are illiterate and incapable of filing a proper return, would make the whole scheme impracticable and oppressive if sought to be introduced in the present state of the country.

**Q. 59.** The question is very general in its character and is really particularised in questions 52 and 60 to 64. The answer of the Association to this question is to be gathered from its answers to the questions abovementioned.

**Q. 60.** In answer to question 52 the view on which the Association has proceeded is that the benefit of all unearned income should go to the cultivator and that therefore there should be no enhancement of the rent except on the ground that the productive powers

of the land have been increased wholly or partly at the expense of the landlord. In expressing that view the Association has been guided by the consideration that it is the cultivator who is the sole instrument in production of wealth from the land and his economic status is the worst of all. The Association took no notice of the hope held out to the zamindars at the time of the Permanent Settlement that they would enjoy the benefit of improved agriculture which did not necessarily mean improvement at their own expense. If it is considered reasonable that even under the present conditions the hope held out at the time of the Permanent Settlement should receive consideration, the proper course will be a proportionate division of all unearned increment including that which results from fluvial action between the landlord and the cultivator raiyat with perhaps some weightage in favour of the cultivator in consideration of his poverty and the exclusive producer of the wealth from that.

The question of "fairness" or otherwise in such matters depends to what is the standard of fairness to be applied. If it is only meant fair according to existing law it has no particular meaning for under the present law he does not get all the benefit. But if the standard of fairness is the remuneration of labour there appears to be nothing unfair in giving the cultivator the entire benefit considering the small return which he gets from his labour and the fact that he alone does everything to raise crops of the land.

**Q. 61.** The answer of the Association to question 60 indicates its view with regard to question 61. Rise in prices is an unearned income and the same considerations which would apply to enhancement of rent on the ground of fluvial action will also apply to enhancement of rent for rise in prices.

**Q. 62.** The kind of consideration suggested in this question in determining the enhancement of rent is impossible of practical application.

**Q. 63.** The policy should be to adjust rents throughout the province on reasonable basis having regard to the necessities of the cultivators and requirement of revenue by the State. Under these conditions if some rents have to be enhanced on application of what is fixed as the principle for adjustment of rent the result cannot be avoided. As the Association has suggested raising of revenue by levy of income-tax on agricultural profits it does not recommend abstention from enhancement of rent when necessary for reasonable adjustment of rent.

In adjusting reasonable rent improvements effected at the raiyat's expenses or payment of advance rent by the raiyat should certainly be taken into consideration. There should be no reasonable grounds for apprehension that adjustment of rent should be carried out without any regard to these considerations.

**Q. 64.** In answering question 52 the Association has expressed its opinion that rent should not exceed a fixed proportion of the average nett produce. From this it follows that if necessary on that principle there should be provision for reducing high contractual rents and for limiting rents for new settlements.

**Q. 65.** The question is too general to admit of any satisfactory answer.

As already indicated the Association is of opinion that rent should be adjusted throughout the province on a reasonable basis fixing the maximum to be a proportion of the nett produce. Chapter X of the Bengal Tenancy Act in settlement of rent does not proceed in such principle and is fundamentally defective from that point of view.

**Q. 66.** The Association is again to point out that unfairness has to be judged when there is a definite standard of fairness to be applied. If by unfairness is meant economically burdensome the poverty of the Bengal cultivators is such that in most cases any enhancement is economically burdensome and hence unfair. But if the question really means whether within the present framework of law enhancements under section 105 were given with any bias against the raiyats the experience of the Association is on the whole to the contrary. As a matter of general rule the Settlement Officers have exercised the discretion given to them under section 35 in favour of the cultivating raiyats and the special judges have seldom interfered with such exercise of discretion.

**Q. 67.** It is difficult to say what objective is primarily in view of the Government for making revisional settlements but as a matter of fact the revenue is enhanced in such settlements.

**Q. 68.** In recent times enhancements of revenue of temporarily settled estates have been as a general rule made by very big jumps over the existing revenue. If that fact is considered to be unfair, the enhancements have been generally unfair. But the Association is not quite certain what standard of fairness in enhancements the question is assuming.

**Q. 69.** It is quite obvious that if rents are enhanced during fall in prices it would give rise to grievance which cannot otherwise be described than as legitimate.

**Q. 70.** The Association can only think that the variation is due partly to the original rate of rent fixed more or less on customary basis and partly to the difference in demand for land owing to local conditions due, e.g., to transport facilities and other circumstances.

**Q. 71.** The Association has not got sufficient experience of the subject dealt with in the question and would not accordingly like to deal with the question.

**Q. 72 and 73.** The Association as a body has no expert knowledge in the subjects of these questions and does not desire to deal with them.

**Q. 74.** The Association has no working statistics on which to base any answer to this question.

**Q. 75.** The Association has not sufficient knowledge either of the expenditure or its curtailment to give any satisfactory answer to this question.

**Q. 76.** The Association has no special knowledge of the administration of the khas mahal.

**Q. 77.** The present uneconomic condition of the cultivating raiyats of Bengal is due generally to two factors:—(i) the primitive method of cultivation which is still being followed resulting in a production which is ridiculously low in quantity and quality compared with the standard of other civilised countries, and (ii) the unbearable pressure on land owing to non-development of modern industries and destruction of old handicrafts. Neither the “general policy of Government” nor “the land system of Bengal” ever concerned itself with this aspect of the cause of the uneconomic condition of the raiyats. The general policy of the Government and the land system of Bengal are responsible for the present condition of the raiyats in this sense that any positive policy for improvement of agriculture and organisation of the land system with a view to such improvement would have prevented the present uneconomic condition.

As to the question what “modifications” of the policy of the Government or the land system are necessary to remove the present uneconomic condition of the cultivators the Association desires strongly to emphasise that no mere change of the land laws giving the raiyats better security to their rights in their tenancies or relieving them from the burden of the present or enhanced rents would to any appreciable extent better their present hopelessly, uneconomic condition. Far greater effort on the part of the Government and the nation than mere passing of such legislations is necessary to better the condition of the cultivators, which is in one sense, bettering the economic condition of the whole country. It is necessary to substitute the present primitive mode of agriculture by modern scientific methods and the land system of the province should be changed according to the necessities of the introduction of such modern methods of agriculture. It is needless to say that provision for marketing facilities inside the country and in the world market must go hand in hand with improved agriculture and further pressure on the land must be reduced by the introduction both of large scale and of cottage industries. The Association thinks that any attempt at short-cuts can only lead to futility and dissolution.

**Q. 78.** Any satisfactory answer will require statistics which the Association does not command.

**Q. 79.** The Association has not the detailed knowledge necessary for any satisfactory answer to this question.

**Q. 80.** The Association has generally answered this question in answering question 77.

**Q. 81.** The Association has already indicated its view in answering question 77 that in the present state of agriculture of the province the pressure of population on the land is one of the main reasons of the poverty of the agriculturists. The question of surplus population in respect of the agricultural needs depends on the method of agriculture. In modern methods of scientific agriculture a smaller population than at present in Bengal would produce more and would support a larger population than is done at present in Bengal. If the question seeks an answer as to what percentage of labour could be removed from agriculture without any deficiency in hands in the present state of agriculture in Bengal the matter is one of elaborate statistics and the Association cannot venture any guess.

**Q. 82.** Pressure will be relieved by more agricultural production as also by taking off people from land to other avocations, e.g., industry. The industries may be large as well as small. The Association does not find any reason to support that the only means to take off people from the land is by taking them "to large industries in Government aided factories." Unaided private factories, large and small, if successfully worked and home industries, if properly organised, would do as well and perhaps better. If the industry be of a nature, which cannot or ought not to be started by private enterprise, such factories should of course be started by the Government and may no doubt employ part of the surplus agricultural labourers.

**Q. 83.** There is no efficient organisation, Government or private, from which the agriculturist can get loans on reasonable terms. The Association does not think that the co-operative credit societies have to any considerable extent met the necessities of the real agriculturists. These societies have largely been inefficient and not always honest in their management. These co-operative societies have been practically the only Governmental institutions for providing agricultural credit. Generally, owing to the defective organisation and unsatisfactory personnel, the experiment has not proved to be a success. Better result may be expected by organising these societies on stricter basis and with the help of men commanding confidence of the people by their reputation of efficiency and honesty. The Association regrets to have to say that in the past more often than not management of these societies has been entrusted to men possessing so-called "loyalty" which generally meant people who seek to be in the good graces of the executive authorities with the hope of benefiting their private affairs.

But the Association thinks that until the agriculturists are more solvent than at present no system of giving them credit could be ultimately successful and the present methods of agricultural credit can only be of a tentative and palliative nature with a view to save the cultivators from utter insolvency.

**Q. 84.** The Association has no statistical data on which this question is based. It can only say that very high per cent. of the gross produce the agriculturists pay as interest to the mahajans.

To reduce the rate of interest at present paid by the agriculturists on their loan better credit must be organised as to which the Association has given its general answer in answering question 83.

**Q. 85.** The Association cannot add anything helpful to what it has already said in answer to question 83.

**Q. 86.** The Association is of opinion that the Debt Settlement Boards under the Bengal Agricultural Debtors Act, 1935, have dealt with the problem of agricultural debts by practically ruining the agricultural credit of the province. In the opinion of this Association the said Act should be repealed. The system of setting up Debt Conciliation Boards should be abandoned and the problem of reducing and adjusting agricultural debts should be left to the ordinary law Courts for solution after laying down general principles for reduction and adjustment of such debts by disallowing high rates of interest and providing for simpler methods of agricultural insolvency.

**Q. 87.** If the Government finds it practicable the system would be extremely satisfactory if the banks are placed under efficient and honest management. How far it will be possible for the Government to find money for the purpose the Association is not in a position to express any opinion.

**Q. 88.** The Association has not the detailed knowledge of the functioning of the land mortgage banks to give a satisfactory answer. But generally speaking the banks or loan offices which lent money on mortgage of agricultural lands from raiyati holdings to zamindaris are now practically bankrupt owing to heavy fall in the price of such lands.

**Q. 89.** It is true that the method of realisation of rents by suits is both costly and cumbrous and also harassing and expensive to the tenants. But the Association apprehends that any summary methods, e.g., distress or certificate procedure would lead to greater harassment and oppression of the tenants. The Association thinks that the method of suits is under the circumstances a necessary evil. But the procedure of rent suits and rent executions should be made as simple and inexpensive as possible and the present procedure can be considerably modified with that end in view.

**Q. 90.** This question has already been answered in answer to question 89.

**Q. 91.** The Association is of opinion that the old Regulations and Acts dealing with the revenue law should be repealed and replaced by Act or Acts making simpler and up-to-date provisions.

**Q. 92.** The question is too general to admit of any satisfactory answer.

**Q. 93.** It is obvious that by abolition of transfer fees and the zamindars' right of pre-emption the income of the landlords would be reduced. But that the market price of the tenants' holdings would be enhanced.

The Association cannot give any estimate independent of the statistics given in statement No. XIV of the List of Statistical Abstract supplied by the Commission.

**Oral evidence of the representative of the High Court Bar Association  
on 25th March 1939.**

PRESENT ON BEHALF OF THE ASSOCIATION:

Mr. A. M. Bose, Advocate.

In reply to the Chairman, Mr. Bose said he is satisfied that the imposition of an agricultural income-tax would not amount to an infringement of the principles of the Permanent Settlement.

He thought there would be no objection to giving occupancy rights to more than one person in the same land. It is true that the under-tenant would thereby be given a saleable interest, but the Association considers that it should be given to all tenant cultivators. He instanced the case of a tenant who cultivates a large tract of land and later sublets the excess area to other tenants. In such a case occupancy rights should be given to all of them. This proposal may lead to an increase in subinfeudation but he said that even at present some under-raiyats have occupancy rights in respect of the same land as their raiyat landlords. The Association is in favour of applying the same principle to bargadars who supply seed, plough and cattle and finance the expenses of cultivation. The other class of bargadars who supply nothing could be described as partners. He was not in favour of restricting the right of transfer but was unable to suggest any remedy to stop fragmentation of holdings. He thought that the harm which would be done to tenants by restricting transfer would be greater than the advantages derived from restriction. His policy would be rather to improve the economic condition of the tenants.

He considered the effect of the Bengal Agricultural Debtors Act has been so disastrous that the Act should be abolished. The Association has not however been able to suggest any alternative machinery for scaling down debts.

In reply to the Maharajadhiraja Bahadur of Burdwan, he said he did not think that the zamindars could be said to have acquired any prescriptive rights by possession since 1793 but having regard to the conditions under which the Settlement was made with them they should not be deprived of their rights. He agreed that minerals are the property of the zamindars and that if the State has to acquire them it would be very costly. He agreed that over and above the rights of the zamindars, tenure-holders' rights would also have to be acquired. That was one of the main grounds for the Association's view that the present system should not be disturbed. He agreed that after paying all compensation for zamindaris, tenures and mineral rights the profits to the State for nation-building purposes would be extremely small. As regards the reply to question 13, he agreed that the zamindars should be given powers to collect their rents by a more summary procedure than at present.

The Maharajadhiraja Bahadur of Burdwan enquired whether the Association would favour the idea of levying an agricultural cess instead of an income-tax on the ground that income-tax might be merged in the general revenues whereas a cess would be earmarked for agricultural improvements. Mr. Bose replied that the Association had made it clear in their reply that extra funds would have to be raised for agricultural improvements when the condition of the landlords and tenants has sufficiently improved. He would not be in favour of imposing an agricultural cess now. In reply to the Chairman he said that funds for agricultural improvements should be found by the State from other sources than the land and when agricultural improvements have been effected it might then be possible to impose an agricultural income-tax.

In reply to Khan Bahadur Hashem Ali Khan, he said that he could give no idea what would be the cost of the agricultural improvements which the Association recommends, nor could he suggest the sources from which the money should be raised. There would be a fixed minimum to the agricultural income-tax. The zamindars should not be debarred from obtaining enhancements of rent on the ground of increased productivity. It may be true that the tenants are murmuring against enhancements on the ground of a rise in prices, but the Association is concerned with facts and not with "murmurings". He explained his proposal for enhancement by saying that in the reply the question of enhancement had been considered as between landlord

and tenant, and without reference to improvements carried out at Government expense. The unearned income should be shared by the landlord and the tenant. But if agricultural improvements are effected at Government cost that would lead to an unearned increment produced neither by the landlord nor the tenant. In that case the landlords and tenants would share the unearned income and the State would get its share by the imposition of an agricultural income-tax. Zamindaris to-day are not a losing concern though they do not produce much profit. It would depend on the individual opinion of zamindars whether they would be glad to be relieved of the burden of management.

The condition of the cultivators is deteriorating and he thought that without Government aid large scale industries cannot be developed. He could not say what the cost would be.

He gave the following calculation of the profits which are derived by zamindars and all tenure-holders:—

|   | Rs.<br>(Crores.) |
|---|------------------|
| According to the cess valuation figure, the gross assets are .. ..  | 17               |
| Deducting khas mahals and temporarily settled areas, the value of khas lands, minerals, plantations, tea, etc. .. .. .. | 6                |
| Gross rent roll .. .. .. .. ..  | <u>11</u>        |

This gross rent roll—11 crores would be the equivalent of 65 per cent. of the gross value—

|   | Per cent. |
|---|-----------|
| Of this land revenue amounts to .. .. ..  | 25        |
| Collection charges would be about .. .. ..  | 15        |
| Total .. ..   | 40        |
| The balance remaining to the landlords and tenure-holders would thus be (65 per cent.—40 per cent.) .. .. | 25        |

He was not in a position to say what would be the size of an economic holding without being given full data. It is difficult to say whether the existence of many uneconomic holdings is the cause of the present economic conditions. He had no doubt whatever that the yield of crops could be greatly improved and thought that the surplus agricultural population could be supported if the yield is improved. By "scientific methods" of agriculture he did not refer to ploughing by machinery. Scientific agriculture may be carried out by one man for twenty men. He thought that large scale farming is not at present a practical proposition. He had seen several such farms and thought that they had been a failure. If proper manure and better quality seeds are used, there will undoubtedly be a greater yield. He did not

advocate restriction on the free right of transfer because that would lead to a restriction on the market price. He mentioned that after Chapter VIIA of the Tenancy Act was introduced, a number of cases had come from Midnapore district as the result of which the Association came to the conclusion that restriction on transfer was detrimental to the interest of persons who really needed to sell land. He agreed that if sufficient ready money were available to have agricultural banks in every thana it will improve conditions and might reduce the number of sales.

Consolidation of holdings had been tried in the North-West Frontier Province and the Punjab but had failed. It was a kind of acquisition by exchange, whereby tenants were allowed to apply to Court for possession of adjacent land in exchange for scattered plots. The rules are now practically a dead letter.

Defects of the Bengal Agricultural Debtors Act do not lie in the Act itself but in the results of its working. He mentioned the case of a man who wanted to borrow Rs. 3,000 for the marriage of his daughter on the mortgage of a house. A few days before the marriage the moneylender found out that the borrower had agricultural land, and refused to give the loan because he was afraid the borrower might apply to a Debt Settlement Board. If there were banks to provide credit the Bengal Agricultural Debtors Act might continue but he did not agree that debts have been successfully scaled down by Debt Settlement Board. The agriculturist has lost his credit and the landlord his rent. The Act has been detrimental to both.

In reply to Khan Bahadur M. A. Momin, he said that the Association is not likely opposed to the abolition of the Permanent Settlement but thinks that present conditions are not favourable to its abolition. It would be a lengthy matter to describe all the considerations which would be favourable to the abolition of the Permanent Settlement, but briefly speaking, the Association thinks that conditions nowadays are very much the same as they were before the Permanent Settlement, i.e., in the period between 1762 to 1793. One reason for the Permanent Settlement was that the Government of that day wanted to secure the revenue. He agreed that if the Permanent Settlement were removed it might not be difficult for Government to collect the rent but said that his Association did not look at the whole question from the point of view of Government's power to realise rents. The security of revenue was not the only reason for enacting the Permanent Settlement. The interest of the State was certainly considered, but along with it the interests of the zamindars and raiyats were also considered. The zamindars' position was certainly secured, but it was expected that they would deal fairly with their tenants. If the Permanent Settlement

were abolished, he thought that the raiyats would be worse off than they are now for the reasons stated in the reply to question 13. He could not, however, say whether zamindari management is more oppressive than khas mahal.

As regards the reply to question 2(iii), he felt that the Association is justified in saying that the Permanent Settlement led to very little enhancement of raiyati rents and that a temporary settlement would have resulted in more enhancement. If a man has only temporary possession of property, he is not likely to take much care of it, but if his tenure is indefinite he will do so for the sake of his successors-in-interest. If his own revenue were increased, he would try to get as much increased rent as he could from his tenants. One reason why the Association objects to the abolition of the Permanent Settlement is that it will lead to a great financial burden to the State. If it could be proved by figures that State purchase would result in a considerable amount of profit, the question would be one of convenience. If it is thought that conditions are the same as at the time when Murshid Kuli Khan turned out the zamindars and later his successor had to restore them, then it would not be worthwhile making the experiment—but at the top of that it will have to be remembered that nowadays compensation would be payable. The condition of the zamindars is the same as it was 20 years ago on paper, but nowadays realisation of rent is difficult and the cost of realisation is high. Lawyers are shy of buying zamindari property because they are more afraid of litigation. It may also be true that they see little profit in zamindari. The purchase price of zamindaris has come down. The present political conditions are not in favour of the zamindars. It is very difficult to say whether conditions will improve or deteriorate further. At present there is a combination among the tenants. It is impossible to say whether the zamindars or the tenants will be discredited as a result of the present movement just as it is impossible to say whether in the case of a mill strike, the strikers or the owners are discredited.

The proposal for the levy of agricultural income-tax would apply only to prosperous raiyats whose income is above the minimum limit. The tax should be in addition to rent. Whether or no rent is held to be a tax, the agricultural income-tax would be simply a further imposition.

It would not simplify the revenue administration to remove the landlords and tenure-holders. It may be true that if there are fewer claimants to rent, there will be fewer disputes. He did not agree that the imposition of agricultural income-tax would lead to complications in the administration. Road cess, education cess, and income-tax are now being collected without undue difficulty.

He agreed that agricultural banks should deal with short term loans only and not with long-term loans. Agricultural banks would certainly relieve agriculturists' debts. He agreed that tenants are forced to sell their lands in order to pay their debts and that any measure which reduces the value of land would be injurious to the tenants. The Bengal Agricultural Debtors Act has been injurious not only to the tenants but to the mahajans. The reason is that with the scaling down of debts there is no provision for funds to pay off the debts. The Act is an ill wind that blows no good to anyone.

In reply to Khan Bahadur M. Hossain, he said that the Legislature has power to reverse the enactments of any previous Government. He agreed that if 3 annas of every rupee of rent is going to the State and 13 annas to the landlords and tenure-holders, it is a great loss to the State.

He did not agree with the suggestion that a raiyat who sub-lets should be treated as a tenure-holder in respect of the area sub-let. This would lead to complications because the tenancy of a raiyat would be divided: in one part he will be a tenure-holder and in the other an occupancy raiyat. The proposal is not unworkable but would be difficult.

Bargadars who finance agriculture should be given occupancy rights and in the case of those who do not, their case should be regulated by the Contract Act. He thought that if the share received by a bargadar of this class was unfair, the Civil Court would regard it as an unconscionable bargain.

As regards his reply to question 45, he said that it is not necessary that co-sharer landlords should appoint any common manager as there is already a provision in section 99A of the Bengal Tenancy Act. The law also provides that a tenant cannot be compelled to pay rent separately to the different co-sharers.

Sir Frederic Sachse pointed out that co-sharer landlords can, and commonly do, file suits regularly for their share of rent. Mr. Bose replied that would not be legal. Co-sharers cannot file separate suits. The existing law provides that objections can be made to prevent frequent suits by co-sharers. If the law is not made use of, the Courts cannot be blamed but it would be going too far to extend this protection in undefended rent suits.

Continuing to Khan Bahadur M. Hossain, he said that section 60(2) of Regulation VIII of 1793 cannot be interpreted to mean that the rent of khudkasht raiyats was permanently fixed. Enhancement was possible on two grounds:—if the existing rent were below the share payable to the State or if it were below the pargana rate. He agreed

that there was a limit before the Permanent Settlement, but a difference of opinion exists whether that limit was continued after the Permanent Settlement. The question was discussed before the Permanent Settlement was enacted, but it was not decided. He did not agree that under Regulation IV of 1794, rents were fixed according to pargana rates.

In explaining the apparent discrepancy between the reply to question 52 and the latter part of the reply to question 60, he said the Association's recommendation is that legally zamindars should be entitled to enhancements on the grounds specified in section 30 (b) (c) and (d) of the Tenancy Act but as the present economic condition of the tenants is bad, no enhancement should be allowed until their condition improves.

In explaining the reply to question 56, he said that there was a typing mistake—what the Association recommends is that rents should be half of the net produce.

He agreed that most rent suits are decided *ex parte*. He did not agree that certificate procedure would be less costly and harassing than civil suits. Under the certificate procedure simply a postcard is issued and this is followed by a decree. He agreed however, that when there is no dispute over the rent, certificate procedure would be preferable. It would be no use to give Civil Courts certificate powers because if the tenant lodged an objection and engaged a pleader, the case would be argued and transferred to the rent suit file and the procedure would then be the same as in contested civil suits. In fact it would be longer.

The Association is not in favour of restricting the right of transfer. If the market is larger, there would surely be a better price, and this would be to the benefit of the tenants. No harm is done if the mahajan buys the land, because he gives a good price and that is to the benefit of the tenant who sells. The question is ultimately whether it is better to sell for half the price or to get half the crop.

In reply to the Secretary, he said that the Association had already proposed that in a case of this nature, the tenant, if he continued to cultivate as a bargadar, would have occupancy rights and the right to commute the share of the crop to a cash rent.

In reply to Dr. R. K. Mukherji, Mr. Bose said that he is President of the High Court Bar Association. The Association's reply was unconnected with that of Dr. S. C. Basak. He agreed that the abolition of the Permanent Settlement would certainly result in a reduction of revenue from Court fees and stamps. He could give no estimate of the amount but whatever it might be it would have to be set off against the profit resulting from State purchase.

Sub-letting below the grade of occupancy raiyat, if stopped, would be injurious to the interests of the raiyat. He agreed that there is no difference in principle between sub-letting below the zamindar and sub-letting below the raiyat. State purchase of zamindaris and intermediate tenures would not abolish sub-letting below the raiyat.

He agreed that in the estates where the incidence of land revenue is heavy there should be a difference in the assessment of agricultural income-tax.

He was not in favour of imposing an irrigation cess which he thought would prove very burdensome to the landlords.

Bargadars who are treated as tenants would not have to execute any documents: the other class of bargadars who are governed by the Contract Act would be most properly described as partners.

Dr. R. K. Mukerji suggested that a rise in prices can be caused by the State as the result of a difference in exchange values. Mr. Bose replied that the Association had not considered the question of managed currency in their reply but had limited their view to the relation of landlord and tenants.

He did not consider that a raiyat can be regarded as having a proprietary right. Occupancy raiyats can be ejected for a breach of the conditions, not inconsistent with the Tenancy Act, and for rendering a tenancy unfit. There is no connection between zamindars' proprietary right and that of tenants. Some incidents such as heritability and transferability are common but that is all. He was in favour of giving occupancy raiyats the right of not being ejectable under any circumstances.

In reply to Sir F. Sachse, he agreed that there have been very few cases of ejectment under Section 25.

Bargadars who are not regarded as tenants should be governed by the Contract Act: Section 178, Bengal Tenancy Act, does not contemplate their case as they are not tenants. He agreed that labourers might be equally incapable of looking after their interests and might need protection just as much as tenants, but he was satisfied that they receive sufficient protection under the Contract Act from the Civil Courts.

The rights of zamindars to coal and minerals were not expressly given by the Permanent Settlement. After the Permanent Settlement there were several cases in which it was held that zamindars have these rights. The zamindars' claim rests upon case law, but the Government of India was not a party to these cases so far as he is

aware. He thought however that the zamindars' claim to compensation is firmly established although Government might question whether mineral rights were conferred by the Permanent Settlement.

As regards the reply to question 45, he said he is aware that Sir John Kerr's Committee proposed that a common agent should be appointed by all co-sharer landlords: this proposal was not accepted by the legislature and section 99A was substituted. It may be true that in only about two dozen cases in the whole province have common agents been appointed. The reason probably is that co-sharers do not trust each other. He was prepared to accept the statement that half the raiyats in Bengal pay rent to several co-sharers as a matter of course. He agreed that the difficulty arose because the Civil Courts made a distinction between co-sharer landlords acting jointly or separately. That was the reason why section 148A was added in 1928 because co-sharers must be allowed to file rent suits separately.

Landlords objected to the right of transfer being granted in 1928 because before that they were entitled to demand their own nazar and in the bill it was proposed to regulate the rate of transfer fee. He thought that they did not object on the ground that transfer would adversely affect the interests of the raiyats.

A landlord could not raise the issue of enhancement of rent in a rent suit. He might sue for enhancement and at the same time ask for arrears at the old rate of rent.

He agreed that after district settlements are concluded suits for enhancement of rent are very rare except on the basis of the record-of-rights.

In reply to the Secretary, he said that he was in favour of non-ejectability even if a raiyat converted his holding into a brickfield or other non-agricultural tenancy. In such cases section 155, Bengal Tenancy Act, would provide the procedure by which the tenant could be restrained, or could be ordered to pay compensation unless he restored the holding to its original state.

He had not fully considered the details of the scheme for the levy of the agricultural income-tax. He agreed that various classes of cases would have to be separately treated. In the case of landlords and tenure-holders who are purely rent receivers the tax could be imposed on the income after deducting the revenue or rent paid, plus the cost of collection; in the case of persons who are agriculturists a deduction would also have to be made on account of the cost of cultivation, depreciation of stock, etc.; and in the case of the tea industry the tax would have to be charged only on the profits arising from tea growing as distinguished from the manufacture of the finished product.

### Reply by the Jalpaiguri Bar Association.

**Q. 1.** (a) The motives which prompted the Court of Directors to fix the assessment permanently are clearly stated in section 7, Article VI of Regulation I of 1793 and as was natural it was expected that the proprietors of land with whom the Settlement was to be concluded, would exert themselves in the cultivation of lands under the certainty that they would enjoy exclusively the fruits of their own good management and industry. The main point that was emphasised was that on no account would any claim for remission or suspension of revenue be attended to. The object of the measure was not only to promote the future ease and happiness of the people but also to have a fixed revenue without the trouble and expense of periodical assessments. The duties required of them were to pay the revenue at the stipulated periods and to conduct themselves with good faith and moderation towards their dependent talukdars and raiyats.

We do not think that there were any other duties and obligations imposed upon the zamindars after the Permanent Settlement.

(b) The Permanent Settlement did not take away any existing rights from the tenant.

**Q. 2.** After the Permanent Settlement the zamindars were perfectly at liberty to choose their own tenants and to regulate the usage of the land in any manner they thought fit.

**Q. 3.** The landlords have played an important part in bringing under cultivation large tracts of land which were formerly uncultivated and have also tried their best to help the economic development of the country but during the last half a century zamindars have preferred to live in towns and cities being attracted by the amenities of town life and have failed to take any real interest in the welfare of the tenantry. But they have contributed to a great extent in the industrial development of the country by promoting industries.

We do not consider that they have failed to perform the functions expected of them at the time of the Permanent Settlement.

**Q. 4.** It is not correct to say that the zamindars were converted to the status of proprietors of the soil from collectors of revenue. The Regulation I of 1793 and Regulation VIII of 1793 clearly indicate that they were at the time regarded as the proprietors of the soil.

**Q. 5.** There is no doubt that the annulment of the Permanent Settlement would be a breach of solemn pledge given by East India Company to the zamindars.

The plea that the tenants were not parties seems to be meaningless. It was an act of the Ruling Authority affecting the zamindars alone, and the authority reserved to itself full powers to make such laws and provisions as they thought fit to protect the tenants.

We do not admit that the Permanent Settlement has permanently crippled the financial resources of the country. In spite of the Permanent Settlement, the land revenue of Bengal has increased and is still increasing—though not from the permanently settled estates.

**Q. 6.** In spite of flood, drought and other natural calamities, the Government have realised the fixed revenue all these years since the Permanent Settlement. And the zamindars have paid the fixed revenue in spite of the fact that they could not realise their dues from the tenants. And they naturally enjoy the fruits of the management, good, bad, or indifferent.

We consider that large increase in the area under cultivation is due to the combined effect of all these clauses, (i), (ii) and (iii), as noted in this question.

**Q. 7.** It is difficult to make any accurate statement about the percentage of increase on different heads, but on a rough guess it may be—

25 per cent. to (i);

25 per cent. to (ii); and

50 per cent. to (iii), i.e., to enhancements and resettlement.

**Q. 8.** Apart from abwabs and illegal exactions by tahsildars of zamindars the tenants were not unfairly treated by the zamindars. Illegal exactions have been effectively checked by subsequent legislation and at present the tenants have got very little grievance.

**Q. 9.** The Permanent Settlement imposed upon the zamindars the duty of paying the revenue in time without any claim to suspension or remission and to conduct themselves with moderation towards their tenants. We do not see there was any other obligation which the zamindars failed to carry out.

There is no doubt that the zamindars have improved their estates by industry, enterprise and good management and it varies in different localities.

Absenteeism and want of close touch with tenants during the last fifty years is responsible for the present unhappy state of affairs.

**Q. 10.** We think, the Permanent Settlement was in the interest of the country economically and for the greatest good of the largest number.

On the whole the system is to the benefit of the province.

We do not think it has resulted in the advantage of the landlord at the expense of the tenants.

**Q. 11.** (i) In India the State never claimed or realised more than one-third of the gross produce of the land actually under cultivation and the revenue of the State necessarily varied year after year according to the actual production. The Permanent Settlement has ensured a fixed revenue.

The 80 per cent. of the income is not really appropriated by the zamindar.

About 10 per cent. of the total income is lost to the zamindars owing to various causes, another 10 per cent. goes for collection charges, and of the balance a certain percentage always remains in arrears, but they have to pay the revenue at the kist dates.

In Government khas mahals also the jotedar under Government is allowed a margin of 45 per cent. to 50 per cent. on the assets.

The capital invested by the zamindars in acquiring zamindari shows a return of  $3\frac{1}{2}$  per cent. only.

Besides these they undertake a serious risk of losing their estates in default of punctual payment of revenue.

(ii) We do not agree that the Permanent Settlement is responsible for subinfeudation of tenancy. This existed before the Permanent Settlement and still exists more or less in Government khas mahal and temporarily settled estates except where it is prohibited by law or rule having the force of law.

It is due to the tendency of the people to trade in landed interest as that is regarded as the safest investment.

If necessary it can be limited by legislation.

(iii) We do not agree that the Permanent Settlement has created a system of overlordship over the actual cultivators of the soil.

**Q. 12.** We do not advocate the abolition of the Permanent Settlement.

**Q. 13.** No.

**Q. 14.** Compensation should be paid to the zamindars. This may be paid by redeemable G. P. Notes yielding an income equal to the net income of the estates held by the zamindars.

The total sum required would be about 300 crores of rupees.

**Q. 15.** Preferably redeemable, say within 30 years. Interest to be 3 per cent. or  $3\frac{1}{2}$  per cent.

**Q. 16.** The effect would be disastrous to the social structure of Bengal. The people who have got stake in the country and who have made Bengal what it is to-day will lose their occupation, power and influence and the Government will lose the support of an influential body of people.

**Q. 17.** If the Permanent Settlement is abolished the interest of all the tenure-holders should also be acquired and raiyats should come directly under the Government. But we do not think that the change will lead to any advantage.

**18.** Additional staff shall have to be appointed for survey settlement and collection of rents from raiyats involving large costs. The costs would be roughly 2 crores of rupees.

**Q. 19.** No.

Khas mahal raiyats do not enjoy any advantage over raiyats under the Permanent Settlement.

**Q. 20.** No.

It has not affected the raiyats in any way socially or economically.

**Q. 21.** The effect would be disastrous to the social structure of Bengal. The people who have got stake in the country and who have made Bengal what it is to-day will lose their occupation, power and influence and the Government will lose the support of an influential body of people.

**Q. 22.** If purchased, the homestead lands should be allowed to be held by them and its value deducted from the price. Khas lands should go as part of the estate on a valuation to be fixed.

The lands actually cultivated or otherwise used by the zamindars and tenure-holders should be taken to be their khas lands.

**Q. 23.** Occupancy right is a creation of British legislation but some similar rights existed from an earlier period.

**Q. 24.** We do not agree that the cultivating raiyats have always been the actual proprietors of the soil in Bengal.

**Q. 25.** We are in favour of granting all persons interested in the land a sort of occupancy right which would protect them from ejectment at the will of his superior landlord.

**Q. 26.** As we are in favour of granting occupancy rights to all classes of tenants, this question does not arise. If, however, the occupancy right is confined to only cultivators of the soil both the

classes of tenants who partly or wholly sublet may be protected by appropriate provision in law on the basis that the statutory raiyat shall have occupancy rights in all lands held by him whether in khas or partly khas or wholly sublet.

**Q. 27.** The Permanent Settlement did not appear to have made any distinction between different classes of tenants in the matter of protection. We are in favour of giving occupancy rights or similar rights to non-agricultural tenants with a view to save them from ejection.

**Q. 28.** The percentage of non-agricultural lands is very small and generally the landlords of such tenancies do exact a much higher rent for these lands. The State does realise a tax on such income from persons having income from non-agricultural lands in the shape of income-tax. Under the law as it stands an occupancy raiyat is entitled to a portion of his holding for his homestead and similar purposes. This does amount to conversion of agricultural lands to non-agricultural lands. There are, however, cases where agricultural lands have been entirely converted into non-agricultural lands when such lands are within or near about a growing town or *bunder*. The area of such lands in the whole province is so very small in comparison with the agricultural land that an attempt to tax such lands would entail costs which would be disproportionate to the result sought to be achieved.

**Q. 29.** We have no statistics available to show if the bargadars are on the increase. Assuming that it is, the increase must be very small and the only reason appears to be that some cultivators having lost their holdings by private sale or Court sale are now cultivating lands as bargadars.

**30.** (i) The fact that the Amending Act of 1929 did not give any right to bargadars does not appear to us to have anything to do with the increase, as the middle class who do employ bargadars for the purpose of cultivation of the lands have been doing so all along even before the Amending Act and in spite of the fact that under the old law the bargadars could have acquired rights in the lands. As regards the cultivating class, they did not and do not employ bargadars except out of sheer necessity. The Amendment of 1929 certainly does not encourage them to employ bargadars.

(ii) The facilities for transferring the occupancy rights by the Act of 1929 do not in our opinion contribute to the increase of bargadars. In spite of the non-transferability of occupancy holdings before the Amending Act such holdings were freely transferred and acquired by all sorts of people including non-agriculturists. The transfers are the result of purely economic causes. The change of law by the Amending Act has not increased such transfers. The only result of the Amending Act has been to deprive the landlords of some of their advantages but

in our opinion it has not affected in any way the position of the raiyat or bargadars.

(iii) During the economic depression the raiyats have lost their holdings more for arrears of rent than by private sale and in many cases they have been allowed to cultivate the lands as bargadars.

**Q. 31.** The area held by bargadars differs in different districts of Bengal. In eastern Bengal they hold from one to six bighas of land often under different landlords and in northern Bengal such as Dinajpur, Rangpur and Jalpaiguri the average area is one hal (15 bighas). In East Bengal most of the bargadars have their own holdings raiyati or under-raiyati but in northern Bengal almost all of them are landless having no other lands (raiyati or under-raiyati).

**Q. 32.** We do not consider that the bargadars should be given occupancy or other rights. No question of their protection does really arise as so long as a bargadar acts honestly and work satisfactorily no landlord tries to get rid of him. In northern Bengal bargadars are in so great demand that the landlords have to spend a lot to secure their services.

**Q. 33.** We consider the barga system to be economically sound and would not like to prevent its extension.

**Q. 34.** If occupancy rights are given to bargadars the zamindars and other people will certainly try to get their lands cultivated by employing servants or other hired labourers and it is more likely that some bargadar will be thrown out of employment.

**Q. 35.** The ordinary proportion of produce payable by bargadars is half and half. That seems to us to be very fair. If necessary, that may be fixed as the maximum share of produce to be payable by the bargadars.

**Q. 36.** Wages of agricultural labourers ordinarily vary from three to six annas per day, subject of course to the rule of demand and supply. Having regard to the opportunities of employment of agricultural labourers, the economic position of bargadars compares very favourably in favour of bargadars. It is common experience that people do not work as mere labourers if they can secure lands for cultivation as bargadars.

**Q. 37.** We do not consider that the Amending Acts of 1929 and 1938 have the effect of passing considerable area of raiyati lands to non-agriculturists. We are not in favour of restricting transfers to agriculturists only. An agriculturist may have hundreds of acres of lands cultivated by adhiars and a non-agriculturist may really acquire land for the purpose of agriculture. As we noticed above these Amending Acts have only deprived the landlords of their salami or other advantages

and have not in any way increased the transfer of lands from agriculturists to non-agriculturists, the transfer being entirely due to economic causes.

We do not consider it practicable to restrict such transfers. Complicated provisions in law to prevent such transfer would lead to litigations and invention of devices to circumvent the law. Agricultural lands whether transferred to any agriculturist or non-agriculturist will continue to give agricultural produce (save and except when they are converted to non-agricultural use) and it is immaterial whether the land is cultivated actually by raiyats or bargadars.

**Q. 38.** The minimum size of an economic holding should be 25 bighas.

**Q. 39.** Yes.

**Q. 40.** Consolidation of holdings though desirable is not practicable. Even if it is achieved there will be again subdivision and fragmentation due to the personal law of inheritance of the Hindus and Muhammadans. It can be achieved by making compact blocks of holdings by transfer or exchange and by preventing the devolution of such holdings except to one individual either by succession or by transfer. Part transfer or partition to be entirely prohibited.

**Q. 41.** It is difficult to conceive of any special facilities which would enable a cultivator to increase the area of his holding in order to make it an economic one. As the law stands the right to purchase and exchange already exists.

**Q. 42.** It is impracticable under the existing system to have equal distribution of wealth and properties amongst the population of the country. If a businessman is not prevented from expanding his business we do not see why a man who has taken to agriculture and has been successful in his enterprise should be prevented from extending his agriculture by acquiring more lands. We do not consider it desirable to limit acquisition of lands. It is better to have one big and successful agriculturist than to have several different ones. Besides the savings of an agriculturist may be usefully employed in the extension of his agriculture in which he has succeeded by his industry and it is undesirable that his savings should be blocked in some other enterprise which he may not like.

**Q. 43.** Coparcenary is not always detrimental to good cultivation. As a matter of fact, it is sometimes necessary for good cultivation. It is extremely difficult to carry on agriculture in Bengal single-handed. There are times when the help of several others is required by a cultivator at the time of sowing and reaping and sometimes agricultural labourers are imported from neighbouring provinces. It is common

knowledge that a family consisting of several adult members who can work in the field get more from the lands than another consisting of fewer members.

It is only when the holdings are subdivided that the trouble begins. That can be prevented if some means can be devised to prevent partition and subdivision of holdings. Without interfering with the laws of inheritance the holdings may be kept intact if only one of the heirs be permitted to retain the holdings and the other heirs are forced to sell off their interest in the holdings. In the alternative when a partition is sought by one of several heirs only one of the parties may be forced to buy off other shares. This method can only work if there is any bank which would be willing to advance money for such acquisition as ordinarily very few cultivators would be in a position to find money for purchasing the interest of other co-sharers.

**Q. 44.** The answer to question 43 may be referred to.

**Q. 45.** No.

**Q. 46.** The right of the landlord to enhance the rent of the tenants was certainly well-known at the time of the Permanent Settlement and it was certainly contemplated that the landlords would enhance rents of their tenants.

**Q. 47.** No. There are indications that the authorities knew that the zamindars were likely to enhance the rents of the under-tenants. See for instance clause 49 of the Decennial Settlement Regulations VIII of 1793.

**Q. 48.** We do not believe that the rents of those tenancies which existed at the Permanent Settlement were meant to be fixed in perpetuity. The zamindars were enjoined not to increase the rents of mokararidars and to observe the terms and conditions of the written contract between them and the tenants. See section 49 of Regulation VIII of 1793.

The provisions of section 6 of Bengal Tenancy Act only indicate that when rent of a tenancy held from the time of the Permanent Settlement has not been enhanced since that time, it cannot be enhanced except by local custom or by the conditions under which the tenure is held. It only supports the view that the right to enhancement of rent depended not only upon the particular contract between landlord and tenant which the landlord was bound to observe under clause 49 of Regulation VIII of 1793 but also upon local custom.

Section 50, clause (1) of the Bengal Tenancy Act is based upon the principle if the rent has not been enhanced from the time of the Permanent Settlement a contract of non-enhancibility should be presumed. It is only a method of proving that under the original contract the landlord was not entitled to enhancement.

Neither section 6 nor section 50, clause (1), of Bengal Tenancy Act lends any support to the theory that the mere existence of the tenancy from the time of the Permanent Settlement would preclude the landlord from enhancing the rent or in other words they do not show that rents of tenancies existing at the Permanent Settlement were also fixed in perpetuity or meant to be so fixed.

**Q. 49.** Assuming that it was intended that the rents of the tenants existing at the Permanent Settlement should never be increased, there is no case for reducing the rents of such tenants.

There are no sufficient materials available for determining those rents or for distinguishing the tenancies existing at the time from those which were created subsequently except in a very small number of cases.

It is true that where rents of raiyats have been enhanced before the recent economic depression such enhanced rents are now operating harshly upon the tenants, regard being had to the abnormal fall in prices of agricultural produce in general and jute in particular.

We would suggest that the highest rent per bigha in particular districts may be fixed after considering the class of lands, the average yield, nature of crops grown, and average price and where the rents are found to be in excess reduction may be allowed.

**Q. 50.** If enhancement is allowed some criterion must be fixed and the ground of rise of prices of staple food crops is after all a most unobjectionable one, but it was never foreseen that after such a phenomenal rise of prices from 1920-28 there would be such abnormal fall during subsequent years which definitely points to that conclusion that the ground of rise of prices is not always a safe criterion. We think that after due consideration of all the facts mentioned in answer to question 49 the highest and lowest rents payable by raiyats for agricultural lands in different districts may be fixed so that enhancement or reduction cannot cross those limits.

**Q. 51.** It appears that all waste lands outside the limit of the permanently settled estates were to be assessed at the pargana rates. But it is difficult to maintain that it was ever intended that all waste lands should be settled at the pargana rates prevailing in 1793. It cannot for a moment be contended that the waste lands in Jalpaiguri Duars should be settled at the pargana rates prevailing in 1793.

What was intended seems to be that the Permanent Settlement of the lands of the various districts including those waste lands outside the ambit of the permanently settled estates, the lands held under invalid lakheraj grants, etc., should be assessed on the same principles.

**Q. 52.** Half the profit of the cultivator after paying all the expenses of cultivation ought to be the fair and equitable rent.

**Q. 53.** Cultivators of the permanently settled estates in most cases do pay lump rentals where the tenancies are old, rents of comparatively new tenancies are based partly on competition and partly on the consideration of the production of the land.

In temporarily settled estates under Government khas mahal the rents are fixed on the supposed classification of lands made on the basis of productivity and at rates fixed by the Board of Revenue at so much per acre. It is not correct that the rates differ greatly for lands of similar value in almost every village and estate.

There are differences in rates in the same village or estate for similar lands no doubt but that is not generally the case.

**Q. 54.** It is not our experience that poor and weaker tenants pay higher rents.

The general rate prevailing in the locality, productivity of the soil and competition are factors responsible for the present rents in Bengal.

**Q. 55.** We would not recommend the readjustment of rents on a uniform basis throughout all parts of the province even if the zamindars and middlemen are removed.

Productivity, natural advantages and disadvantages, differ so widely in different localities, that it is impossible to have uniform rates of rent throughout the province. A fixed principle however may be adopted.

Once the basis or principle of fixing the fair rent is fixed the whole province may be brought under it. We presume that by this time a record-of-rights has been prepared in all the districts of Bengal and no fresh record-of-rightis need be prepared but verification of the old record-of-rights may be necessary.

**Q. 56.** We would recommend that half the produce or its equivalent in cash should be taken as expenses of cultivation and of the remaining half, half may be given to the cultivator for his profit and the other half is to go to the landlord as the maximum rent.

**Q. 57.** If rent is fixed on cash basis on the value of the produce it would be inequitable to fix the rent in perpetuity.

The rents must be liable to revision from time to time and we would fix 20 years as the limit after which the revision may be made except in abnormal circumstances.

**Q. 58.** There will be no advantage in the substitution of income-tax in the place of rent.

The second part of the question is answered in the affirmative.

**Q. 59.** Under the Bengal Tenancy Act the tenureholders are liable to pay enhanced rents upto 80 per cent. of their assets. This is extremely harsh on the tenurholders.

There is no reason why the zamindars should get so much.

The provision for enhancing the rents of the raiyats are really protecting the raiyats from unusually high enhancement.

The provision for enhancement on the ground of the rent being less than the prevailing rent is practically useless.

The only other ground of enhancement—the rise of prices of the staple food crops—does not operate harshly.

**Q. 60.** We have come across very few cases where enhancement has been obtained on the ground of improvement of the soil as a result of fluvial action. It is generally extremely difficult to prove a case of this sort and the provision of law on this point is almost a dead letter. However theoretically the zamindars who are proprietors of the soil can legitimately claim share of profit due to the improvement of the soil.

The zamindars of the estate therefore can claim enhancement under such circumstances.

**Q. 61.** No. If there is corresponding provision for reduction of rent on fall of prices.

**Q. 62.** No such distinction can be made, as obviously no distinction is made in case of income-tax where an individual is taxed on an income of Rs. 2,000 though that sum may be even quite insufficient to maintain his family.

**Q. 63.** Yes, all the more so because the tenants very seldom have either the money or the inclination to fight out cases like this against powerful landlords.

It is extremely difficult for the tenant to prove prevailing rates.

**Q. 64.** We are not in favour of interfering with contractual rents except where owing to change of circumstances such rents have become oppressive.

According to some settled principles rents for new settlements may be limited.

**Q. 65.** We are strongly of opinion that there is absolutely no justification for having different methods for the settlement of rent in temporarily settled Government estates, khas mahal and permanently settled estates.

The defects are that the revenue officers supported as they are by the Board of Revenue are always over-anxious to enhance the rents by way of resettlement.

The tenants are mostly illiterate or semi-literate, do not know or cannot know what is being done and are practically helpless.

Tables of rates are prepared for different classes of lands and lands are classified according to the whims of Revenue Officers with the result that rents after every settlement increase sometimes to the extent of 50 per cent. or more.

Though there is a provision for civil suit but so far as rents are concerned that is conclusive.

The appeals to the revenue authorities provided by law are generally useless as the principle of enhancement, the table of rates, and all questions of principle involved are already settled with their approval.

The rules which govern the enhancement of rents in permanently settled estates ought to govern the tenants of the temporarily settled estates as well.

**Q. 66.** We do not know of any case where unfair enhancements have been allowed by the Settlement Courts or the Special Judges in proceedings under section 105, Bengal Tenancy Act. Our experience is that enhancement granted by Settlement Courts or Special Judges were always moderate and reasonable.

**Q. 67.** Yes.

**Q. 68.** We consider that during the recent resettlement in the Jalpaiguri Duars (temporarily settled estates), the rents settled amounted to enhancement which was obviously unfair.

**Q. 69.** Yes.

**Q. 70.** The reason for variation may be due to a variety of causes such as the question of demand and supply, productivity of the soil, the natural advantages and disadvantages.

The word "similar lands" are often very vaguely used in this connection. And Settlement Officers are often misled by such comparison. The paddy lands in Sundarban or Barisal khas mahal are quite different from those of Jalpaiguri Duars but ordinarily if they grow only one crop, namely, paddy, the lands are supposed to be similar whereas as a matter of fact they are not.

**Q. 71.** It is a fact that remissions are not ordinarily given in permanently settled areas and khas mahal areas. The reason seems to be that the rules in question are such that the District Officers find it difficult to recommend to Government lest their recommendation be turned down. There are so many "ifs" in the rules that it is difficult to obtain the recommendation of the Collector.

The rules may be simplified by making a provision that if a certain officer or a committee appointed by Government is satisfied that there has been total or partial failure of crops there should be a remission of revenue and rent for a specified period.

The Government, as soon as it decides on remission, should make it known to all tenants within the area that such remission has been granted and that they are not to pay the rents for that period. If in spite of that any landlord realises any rent he may be proceeded against under the law.

**Q. 72.** The average approximate costs of production per acre appears to be as follows:—

|           | Rs.     |
|-----------|---------|
| Jute      | ... 50  |
| Paddy     | ... 24  |
| Sugarcane | ... 150 |

**Q. 73.** Productivity of the soil in Bengal is generally on the decrease:—

Reasons seems to be want of manure—natural and artificial.

Government have not taken any effective steps to improve the fertility of the soil either by distribution of manures or by distribution of improved seeds.

**Q. 74.** The Acts referred to have not been extensively applied by Government. The reasons are probably financial.

**Q. 75.** We have no sufficient materials before us to answer this question.

**Q. 76.** Government have been realising salami for settlement of lands in khas mahal at least for the last twenty-five years or more. So far as we are aware Government do not spend any money for improving the agricultural condition of these lands.

**Q. 77.** Government have got practically no policy to improve the economic condition of the raiyat—

- (a) want of education,
- (b) want of marketing facilities,
- (c) want of rural banks to finance the cultivators,
- (d) want of employment during slack season,

are some of the reasons for the present uneconomic condition of the raiyat. Government may help in all these matters.

The land system of Bengal has got nothing to do with the uneconomic condition of the raiyats save and except that it allows holding to be subdivided to very small uneconomic holdings.

Government can help in the matters referred to in clauses (a), (b), (c).

**Q. 78.** A raiyat having an average holding of say 1·9 acres may have an income of about say, Rs. 90 to Rs. 100 and his income from other sources may be utmost Rs. 15/20 a year.

Raiyats having 5 acres of land may maintain themselves and their family on the present standard of their living from the income of this holding.

**Q. 79.** Save and except the record-of-rights there is practically no land records kept in Bengal.

The Collectorate registers cannot be deemed to be land record in any sense.

The present system is most unsatisfactory. It is quite feasible to prepare and maintain continuous and accurate land record in small limits of villages and to include in such record a full statement of the crop on each plot from year to year.

**Q. 80.** The means suggested in clauses (i) to (v) may all be tried to increase the income of the cultivating raiyats.

**Q. 81.** We do not consider that the pressure of population on land is one of the main reasons for poverty of the agriculturists.

In fact in many districts of Bengal there is a dearth of agriculturists.

If there be rational mobilisation of agriculturists, Bengal can yet maintain her whole agricultural population out of the income of the land.

**Q. 82.** Any means by which agriculturists may have another source of income would relieve the pressure.

**Q. 83.** There is no efficient organisation, Government or private, in existence. It is necessary to establish banks or other organisations which would advance money to agriculturists on the security of lands and crops so that they may not be forced to sell their crops when prices are low.

**Q. 84.** So long as agriculturists shall have to borrow money they must pay interest.

The Moneylenders Act and the further attempt to reduce the rate of interest by legislation, if successful, will bring down this drain to a reasonable limit.

Whether it is a bank or other organisation or a mahajan who advances money the drain will probably be the same if the interest is limited by legislation. It is impossible to stop borrowing by agriculturists and necessarily it is equally impossible to stop this drain.

**Q. 85.** The co-operative credit societies have not succeeded in tackling the credit problem of the agriculturists.

Though the interest charged by these societies is not too high they have not been successful in rendering any appreciable benefit to them.

The societies are not very popular and a very small percentage of the agriculturists have become members of such societies.

There are very few members of such societies who have been able to wipe out their debts by taking loans from such societies.

The reasons for the failure of the societies are many. The chief among them being—

- (a) The difficulties in complying to the formalities required.
- (b) The delay in securing a loan.
- (c) The difficulty in producing a surety.
- (d) The difficulty in securing successive loans.
- (e) Party-faction and favouritism.
- (f) Realisation of debts from sureties without serious attempt to realise from the principal debtor.

As a matter of fact, it is common experience that agriculturists borrow at higher rates from village mahajans and do not like to borrow from the co-operative societies.

**Q. 86.** The net result of Debt Settlement Boards has been to ruin agricultural credit altogether. The settlement effected by these Boards has the effect of nearly postponing payments and creating difficulties in the way of securing any further loans.

Nowadays the agriculturists have to part with their properties movable or immovable to secure even small loans and that is bringing extreme distress to the agriculturists themselves.

The main defect of these Boards is that they are composed (in many instances) of undesirable and unscrupulous persons who, it is reported, are making a living out of it.

The Act itself is cumbrous and unintelligible to laymen and cannot be efficiently worked by people without legal training.

The administration of the Act ought to be placed in the hands of the judicial officers such as munsifs and Sub-Judges and there must be a limit of the amount of the debt that can be settled under the Act.

The word "debtor" must be more precisely defined so as to include real and bona fide agriculturists only.

**Q. 87.** Agricultural Banks may be established in each union to finance the agriculturist but it is doubtful whether Government would be in a position to establish them in near future.

The limitation of the rate of interests by law may serve the purpose and village mahajans may serve as bankers to these agriculturists.

**Q. 88.** We have not seen any Land Mortgage Bank functioning in this district. Therefore we are unable to make any suggestion.

**Q. 89.** The ordinary procedure for realising debts through law courts ought to apply to the landlords but the procedure for the rent suits is simpler than in other cases.

As regards costs it is mainly due to the court fees payable which are already high. If justice is costly for others there is no reason why it should be cheaper for landlords.

The only suggestion is that justice should be less costly for all concerned. The tenants can always avoid rent suits by paying even one year's rent when there are arrears for four years.

It is not only harassing or expensive to the tenants but on the other hand the tenants do sometimes protract proceedings and harass the landlord simply to gain time.

**Q. 90.** Certificate procedure is objectionable because the proceedings are summary.

There is no other way of recovering rents more speedily than through proceedings in a Civil Court. But the proceedings may admit of further simplification. Any other method would be too drastic such as distress or arrest or forfeiture of tenancy.

All these methods have been definitely abandoned in the interest of the tenants.

**Q. 91.** We would recommend the repeal of old regulations and earlier Acts and replace them by a simple consolidated Act embodying the main provisions.

The Revenue Sale Law and the Patni Regulation do operate harshly on the landlords and the tenants. They may be amended.

**Q. 92.** There ought to be provisions in the Revenue Sale Law for giving personal notice to defaulters and also to give them an opportunity to pay off and save their estates by deposit within 30 days after sale as has been done in case of patni sales.

The provision for annulment of all under-tenures in case of revenue sale is also harsh upon the under-tenureholders and they should be given an opportunity to pay off the arrears and save their interest.

**Q. 93.** We do not consider that the Amendment of 1938 of the Bengal Tenancy Act would have any serious economic effect on tenants.

The landlords, of course, have lost a source of their income and the total loss of the landlords may amount to 30 to 40 lakhs a year.

**Reply by the Bar Association and the Peoples' Association, Khulna.**

**Q. 1.** The history of the Permanent Settlement is now too well-known to need any recapitulation here. It is presumed that the Commission have gone through all the publications and records connected therewith. A study of the history leaves on our mind the impression that the real object of the Permanent Settlement was to secure revenue of the Company at a rate as highest as possible. It does not appear that there was any altruistic motive behind the Settlement so as to confer any real benefit either on the zamindars or on the tenants. This point has been very aptly described in Mitra's "Land Law of Bengal", page 88, where he has stated, "The necessities of paying the great military and civil establishments of the Company and the dividends to the proprietors required the punctual realisation of the land tax, and the amount needed was large. To avoid fluctuation and ensure punctual realisation some means were absolutely necessary to be adopted and the Government adopted not only the best, but, even shows, the most successful one. The tax was at the time so heavy and the rules adopted for realising it were so paralysing that most of the ancient Rajas and zamindars of Bengal who had the good fortune of Permanent Settlement being thrust upon them succumbed in the course of the next few years." Mr. Mitra goes on to point out that the prevailing feeling in England about the time was one of the main causes which led to the introduction in India of the same principle of giving certainty to the demand of the Government upon land. Mr. Marshman says—"In the course of seven years, dating from 1793, most of the great zamindars who have survived the commotions of more than a century, were ejected from the estates of which they had been recently declared the sole proprietors. It was a great social revolution, affecting more than a third of the tenures of land, in a country of the size of England." —History of India, Vol. II, p. 261. It thus appears that the Permanent Settlement instead of benefiting the zamindars really ruined them. The result should have been anticipated by the then ruling power in view of the fact that the revenue that they were going to levy was far in excess of the oppressive levy made by Mir Kasim about two years before the grant of the Dewani to the East India Company. (Field's Introduction to the Bengal Code, 2nd edition, pages 88 and 89.) Again, when after several years of experience the ruinous effect of the Settlement was brought home to the authorities they, instead of mitigating the rigour of the Settlement by revising the assessment, enacted the notorious Haptam Regulation (Regulation VII of 1799), which practically let the hungry zamindars loose upon the tenants and, to all intents and purposes, demolished all

vestige of the notion of the proprietorship of the occupier of the soil which endured through ages and through revolutionary invasions and inroads. About this Regulation Mr. Field says thus—"There is scarcely a country in the civilized world in which a landlord is allowed to evict his tenant without having recourse to the regular tribunals; but the Bengal zamindar was deliberately told by the Legislature that he was at liberty to oust his tenants if the rents claimed by him were in arrear at the end of the year, leaving them to recover their rights, if infringed, by having recourse to those new and untried courts of justice, the failure in which might be punished with fine or imprisonment." The object of this as well as some of the earlier regulations, e.g., XLVI of 1793 and III of 1796, appears to have been simply to ensure the income of the Company and "To guard against a permanent diminution of the public revenue" at the sacrifice of the tenants. So in our opinion the objects of the Permanent Settlement as stated in question 1 are not only not exhaustive but do not seem to point to the real state of things.

As regards the duties and obligations of the zamindars, it seems that at the time of the Permanent Settlement (1793) whatever pious wishes may have been expressed in favour of the tenants the main duty imposed upon the zamindars was to collect money from the tenants in order to pay punctually the dues of the Government. The Settlement, which reserved to the zamindars only 1/11th of the net profit after meeting collection charges and which enjoined strict punctual payment on severe penalties for failure, without making, at the same time, necessary arrangement for speedy realisation of rent from the tenants, cannot be called a measure of generous treatment. The zamindars felt that the Company wanted a regular and punctual payment and their duty was to collect money from their tenants. When they were unable to fulfil this duty the State came to their aid with rigorous legislation enabling the zamindars to collect rents from their tenants and thus it can be well conceived what impression this legislation, Haptam (VII of 1799), made upon the minds of the zamindars regarding their own duties towards their tenants.

The question whether the Permanent Settlement took away any existing rights from the tenants has been very elaborately dealt with by the historians. From time immemorial the occupiers of the soil had been treated as having a permanent interest in the soil occupied. Hindu sages are unanimous in declaring that proprietary right in the soil vested, to a considerable extent in these occupiers. Under the Muhammadan Rule, though in theory the king was regarded as the proprietor of the soil by virtue of conquest, still in practice the occupiers of the soil were allowed to continue practically as proprietors of the soil. State recognition to this was accorded by the Settlement of Todar Mal. Whatever may be the real position about which there is a great deal of

controversy, it is clear that the Permanent Settlement did not recognise any degree of proprietorship of the tenants. So the Permanent Settlement, it seems to us, took away the existing rights of proprietorship from the tenants. This inevitably led to controversies, oppressions, uncertainties covering over more than half a century till 1859 when and subsequently in 1885 the Government were compelled to recognise the rights of the tenants but only after inflicting untold miseries both on the zamindars as well as on the tenants.

**Q. 2.** This is a matter of history. It seems to us that the Permanent Settlement or subsequent Regulations gave wide powers to the zamindars, but there was limited scope for exercising those powers without causing oppression to the tenants. So far as the waste, uncultured and other khas lands were concerned they seem to have unrestricted powers of choosing their tenants and imposing any conditions on them, but as regards the lands already tenanted the powers of the zamindars seem to have been greatly restricted by custom and customary (pargana) rates recognised by Government. In the latter case also the oppressive Regulations XLIV of 1793, III of 1796, VII of 1799, V and XVIII of 1812 and later on Regulation XI of 1822 and Acts XII of 1841 and I of 1845 seem to have given the zamindars very wide powers enabling them to choose and impose terms on their tenants.

**Q. 3.** In spite of serious handicaps due to heavy taxation and uncertainty of their relations with the tenants it cannot be gainsaid that the zamindars have contributed largely to the economic development of the country since the Permanent Settlement. They have formed the bulwark of the State for protection of peace and order in the country. They have materially contributed towards the reclamation of waste lands. They have helped the tenants in times of distress and have also financed the tenants by loan or other grants to improve the agricultural lands. Their contribution in the domain of industrial and commercial development of the country is not inconsiderable. In the field of education and medical relief which indirectly helps the economic development their contribution is also large.

As regards the functions expected of them at the Permanent Settlement we have already discussed that it seems to us that the only function expected of them was to raise money and pay the Company punctually. (*Vide* page 109 of 5th Report, Cambray's Edition, 1917.) They failed to discharge that at the earlier stages owing to *inter alia* defects in the regulations, heavy assessments, courts' delay, want of power of distraint and low margin of their profit; but later on when means of speedy collection was prescribed they performed this function fairly well. But if it is conceived that their functions were to improve the economic condition of the country they have, as stated above, discharged their functions to a considerable extent. The zamindars

certainly took the Government as their model and in their limited sphere they generally tried to follow the Government as far as possible and it cannot be said that in any benevolent and beneficent enterprise of Government they did not come forward with munificent donations and other substantial assistance. Of course critics may point to some oppressive or indolent zamindars to refute the statement made above. But indolence is a curse which is inherent in the climate of the country and oppressions were in earlier stages sanctioned by law and it is not unnatural that they would continue in some cases in spite of subsequent prohibitions. Taking all things together we do not consider that the zamindars have failed to perform the functions expected of them at the Permanent Settlement to any considerable extent.

**Q. 4.** This is also a matter of history. But as far as we have understood the position of the zamindars at the time of the Permanent Settlement it seems to us that there were two main classes of zamindars at the time, one comprised the ruling chiefs or other Rajas, who, somehow or other during the Muhammadan Rule, acquired the hereditary right of receiving rents and otherwise enjoying profits of the soil or in other words they seem to have acquired some sort of proprietary right in the territories over which they ruled and the other class consisted of the collectors of revenue, who were called zamindars. The Permanent Settlement conferred the same status on both these classes and it has been rightly said that the former class was degraded and the latter elevated.

**Q. 5.** There cannot be any doubt that the annulment of the Permanent Settlement would be a breach of a solemn pledge given not only by the East India Company but by Parliament as well to the zamindars. (See Field, page 92.) The permanent zamindaris were ushered into existence by solemn declarations, Parliamentary enactments as well as Regulations of the then Government of India. The zamindars have, in consideration of the permanency of their interest, suffered loss, invested capital and undergone all sorts of trials and troubles in order to maintain themselves and to assist the State. The imperative necessity of bringing into being this class of landed aristocracy has been aptly described by Mitra in *The Land Law of Bengal*, p. 90, where it is stated "The East India Company would have been reduced to bankruptcy if they had not adopted the principle of Permanent Settlement—and that taking all things into consideration the State has not suffered—the ancient Rajas and the cultivators of the soil have suffered." So after enjoying the benefits of the Permanent Settlement to annul it without paying adequate compensation will not only be a gross breach of pledge and faith but also of moral and legal obligation. At the same time it is quite correct that the cultivators of the soil were totally ignored at the time of the Permanent Settlement.

The dumb millions suffered in order to satisfy the greed of the East India Company. In practice as well as in theory these people were regarded as owning considerable proprietorship over the soil but their case elicited only some expressions of pious wish in the Regulations. The settlement was permanent only at one end but it was uncertain, loose and fluid at the other end which concerned the tillers of the soil. In our opinion when both views appear to be correct the British Government should now come forward to make sacrifices that may be wanted of them, if necessary, to stabilise the position even at this distant date and give similar permanency to the tenants as is enjoyed by the zamindars. We propose to deal with this point more fully later on.

We do not exactly see how the Permanent Settlement has permanently crippled the financial resources of the country if "country" means the people. If, however, "country" means the State a permanent restriction has no doubt been placed on its financial resources. But it must be taken into consideration that for many years after the Settlement the State enjoyed an income largely disproportionate to the available resources of the country. Moreover, the restriction was not subsequently observed when new taxes on the profits of the zamindar and other landholders from lands were imposed in the shape of cesses or even income-tax.

**Q. 6.** In our opinion all the three elements enumerated in this question, that is (1) the increase in population, (2) the enterprise of tenants, and (3) the initiative and pecuniary or other assistance of the zamindars, contributed to the large increase of the area brought under cultivation since the Permanent Settlement. It is very difficult to apportion the credit among the elements. There is no doubt that the zamindars in order to save themselves had, after the initial catastrophe, to invest large sums of money and take other initiatives for increasing their income. But these would have been of little avail unless the pressure of increasing population and the enterprise of the tenants due to want, and increasing demands appeared on the scene. Field in his Introduction to Regulations of the Bengal Code, 2nd Edition, page 106, describes the position thus:—

"At the time of the Permanent Settlement but two-thirds of the land were under culture. A population, rapidly increasing in a country where there are no restraints on multiplication, soon brought the remaining one-third under cultivation in most districts, and the zamindars at once reaped the benefit in the shape of a considerable direct increase of rent. Another direct source of increase was to be found in the opening up of trade unfettered by internal duties (the same being abolished) and the ready market which surplus produce found in consequence." It seems, Mr. Field lays special stress on the increase in population in this connection. But the contributions made by the

zamindars cannot be ignored although there is difference of opinion on this point. Whatever may be the cause, the profits enjoyed by the present-day zamindars are certainly larger than those made by their predecessors at or soon after the time of the Permanent Settlement. But it cannot be said that they have been allowed to enjoy the entire fruits of their industry and good management. New taxes were imposed after the Permanent Settlement upon these profits, e.g., Road and Public Works cesses, Dak cess, etc. We do not like to enter into the controversy whether these taxes were just and proper, but they were certainly encroachments on the profits derived by the zamindars from lands settled with them permanently.

It should be borne in mind that the assessment at the Permanent Settlement was made not only on the existing income of the estates but also with reference to their future development. The contention that the zamindars are enjoying "unearned income" is falsified by the following extracts from Badon-Powell's Land Revenue & Tenure in British India, 2nd Edition, P. 158:—

"The Old Revenue Kanungos had still their official records of past collection (as well as their local experience) to aid the Collector in finding out the proper sums; and the totals were revised, in the rough, with reference to general considerations of the prosperity of the Estate, the value of its waste area, and its capacity for extension."

**Q. 7.** In the absence of adequate materials before us we are not in a position to deal with this question fully. But we may add that the vast increase in valuation is considerably due to rise in prices of the produce of the land resulting from better trading facilities and greater circulation of the currency. The increase due to enhancement of rent has been given in statement 16 of the list of statistical abstracts supplied by the Commission.

**Q. 8.** We have already stated that the zamindars did not receive much equitable or generous treatment from Government at the time of the Permanent Settlement and they in their turn had to take rigorous measures and inequitable procedure to save themselves and these were sanctioned by law.

Mr. Fawcett in dealing with the Chanchra Raj in his report on the Khulna Settlement (page 59) has pointed out how generous the treatment was. He states "The history of the family reads like a Greek tragedy and gives strong support to the view that the decennial settlement was too hastily made permanent without adequate knowledge of the zamindars' resources and with too great reliance on doctrinaire legislation which took but scant account of the temperament of the people it was designed to benefit." Further down at the same page he, after citing exception to the general debacle of the zamindars,

makes a significant statement, "The framers of the Regulations confused the ideal with the real: the well-known homily in Regulation I of 1793 'to discharge the revenue at the stipulated periods without delay or evasion and to conduct themselves with good faith and moderation towards their dependent talukdars and raiyats are duties at all times indispensably required from the proprietors of land' etc., proved vain words and the legislation intended to 'promote the future ease and happiness of the people' (Regulation I of 1793, Article VI) proved in most cases a source of ruin to the proprietor and oppression to the tenants."

It is, however, a matter of common knowledge that the zamindars in most cases treated their tenants with utmost consideration. In this district we know that some ancient zamindar families showed proverbial consideration for their tenants. As a result in spite of their fallen conditions at the present moment the members of their families are regarded with veneration and respect which may be envied by any philanthropic Government. Of course, there are instances of oppressive zamindars but the number does not seem to be so large as that of the former.

That the zamindars' treatment of the tenant is generous appears from Statement 9 of the list of statistical abstracts supplied by the Commission. It appears from that that the raiyati incidence of rent per acre in permanently settled estates is Rs. 3 whereas in temporarily settled private estates it is Rs. 4-6 and in the khas mahal it is as much as 4-11. In this district in certain temporarily settled estates the rental is as high as Rs. 12 or more per acre. Moreover, Statement X shows that the gross profit of the proprietors and the tenure-holders amounting to 126·4 millions of rupees does not seem to be very excessive compared with the total valuation of all produce, amounting to Rs. 1,435 millions. But it seems to us that the average figures will not give us a true idea of the real state of things. There may be zamindaris where the landlords may be very exacting while in others they may be lenient. But on the whole it does not appear that even in spite of uncertainties of the relationship between the landlord and the tenant and wide powers given under the Regulations and although, as Mr. Field points out, "in 18 years after the Permanent Settlement it was found that the difference between the collections from the cultivators and the amount paid to Government had trebled"; the zamindars have shown much more consideration for their tenants than the Government showed to the zamindars or their tenants, so far as the rental is concerned. It may be true, however, that the oppression of the zamindars or their officers did not lie in the direction of the rental but lay in other directions namely, imposition of abwabs and other extra demands. This point has been lucidly dealt with by Mr. Field

in his aforesaid book, pages 75-79. It will appear that in the struggle between the landlord and the tenants due to uncertainty about any principle of assessment of rent the zamindars were not always in an advantageous position. The difference between the treatment meted out by the Government to the zamindars and that by the zamindars to the tenants seems to lie in the fact that whereas in the former case the revenue is fixed, in the latter there is no fixed principle. The fault seems to lie more with the Government in this respect than with the zamindars.

**Q. 9.** Section VII of Regulation I of 1793 seems to contain the duties imposed upon the zamindars at the time of the Permanent Settlement and we have already attempted to reply how far the zamindars have been able to carry them out. Absenteeism of the zamindars certainly, in some cases, leads to oppression by their officers and also deprives the tenants of the benefit of close touch with the zamindars. The tenants receive back much of the rent paid by them to resident landlords in the shape of wages and entertainments on ceremonial occasions. But instances are not rare in which these ceremonial occasions become a source of fresh imposition on the tenants. The resident zamindars, however, have got to live in amity with their neighbouring tenants and have also got to look after their moral and material welfare, whereas the absentee zamindars are only concerned with realisation of their dues. Although in the Regulation it does not appear that any duties were imposed upon the zamindars except in the direction of assessment and realisation of rent and improving the cultivation of the soil, the zamindars both resident and absentee have done much for the moral and material welfare of their tenants by constructing roads, excavating tanks, establishing schools, dispensaries, etc. We, however, believe that such duties though not expressly imposed upon the zamindars, were inherent in the proprietorship of lands, but in the absence of any definite provisions in the law we are not in a position to say that they have failed to discharge their duties even in these respects.

**Q. 10.** We have already discussed that the Permanent Settlement appears to have been introduced mainly in the interest of the Company. But after undergoing vicissitudes in which many people both zamindars and tenants have suffered untold miseries it has established a structure of society to which the people have become accustomed in spite of its defects and drawbacks. The zamindars as a class do not appear to be in very affluent circumstances at the present moment, but their position is gradually becoming intolerable owing to imposition of other duties of collecting new and fresh cesses. But still it cannot be gainsaid that the Settlement contributed to the rise of an influential section of people, namely, the middle class, who now seem to be the backbone

of the social structure of the country. Although the statistical figures do not indicate that the interests of the tenants have been excessively sacrificed for securing profits to the zamindars, the condition of the tenants does not seem in all appearance to be very happy. This may be due to visitations of nature, want of thrift, improvident habits, want of education, economic depression, increase in population, competitive prices of the produce of the soil, better standard of living, additional imposition over and above the rent, and in some cases, deterioration of the productivity of the soil. Were it not the case the condition of the tenants would have been much better in temporarily settled or khas mahal areas than in the permanently settled estates, but the condition seems to be the same, if not the reverse.

We may also note here that the precarious financial position of many of the present day zamindars is due to improvidence, extravagance, luxury, indolence, mismanagement and high standard of living appropriate to their position in society.

**Q. 11.** (i) From the figures given in the Statement X of the list of statistical abstracts supplied by the Commission it appears that very small part, i.e., about 9 per cent. only of the gross profits derived from lands is receivable by the proprietors and tenure-holders and more than 90 per cent. of the gross profits are intercepted by the raiyats, under-raiyats and other cultivators. It is not always realised what amount of difficulty the proprietors and tenure-holders have got to undergo in order to collect their own dues. The gross income that falls in their share is never fully realised. Not an inconsiderable part has often to be written off as unrealisable. Over and above this the charge of collection and additional cesses have got to be met by them. Besides, the proprietors have got to be punctual in their payment, but the same is not the case with the cultivators or with the tenure-holders excepting patnidars. Of course, it must be admitted that the cultivators' profits are subject to fluctuation due to failure of crops resulting from various unforeseen causes, but the figures conclusively show that the charge that the zamindars appropriate nearly 80 per cent. from the income from land is a myth. Even if the cost of cultivation, etc., is calculated at half the gross produce still the appropriation by zamindars will not exceed 18 per cent. of the net income from land.

(ii) It is, we think, true that the Permanent Settlement has led to subinfeudation of tenancies as it was felt necessary and encouraged by the State to save the precarious position of the zamindars, but it has resulted in the diminution of the income of the zamindars because the income of the tenure-holders has been practically carved out of the profits available to the zamindars. This subinfeudation is a natural result of the peaceful enjoyment of land for a long term of years. Such subinfeudation was not unknown even before the Permanent

Settlement and is very largely extant in temporarily settled areas also. Even during the Hindu period although the status of tenure-holders or any middleman in-between the King and the occupier of soil was unknown, the original proprietors of the soil, that is, who first came in and reclaimed villages, also inducted tenants upon their lands when the areas became unmanageable to be cultivated by the members of the so-called patriarchal family. In any case, as we have already stated, the Permanent Settlement no doubt encouraged subinfeudation.

(iii) It does not appear that the Permanent Settlement has on the whole led to any abnormal enhancement of raiyati rents. Of course, after the Permanent Settlement as we have pointed out above, the hungry zamindars were let loose upon the cultivators to make as much profit as they could out of the tenants, but it seems the invulnerable custom, which had survived commotions and onslaughts for ages presented a formidable bulwark against these deliberate and State-aided assaults. In the struggle no doubt many raiyats succumbed as also the zamindars and in many places the enhancement of rent was very great, but the statistics supplied by the Commission conclusively show that on the whole the enhancement of rent in permanently-settled areas compares very favourably with that in temporarily-settled estates and Government khas mahals. It also appears from Statement X that the ratio of rent payable by the cultivators to their landlords does not compare unfavourably with the ratio of revenue fixed under the Muhammadan or the Hindu system.

(iv) Soon after the creation of the Permanent Settlement and before 1859 the situation was harassing and oppressive to the tenants and revolt of the tenants against such oppression was not at that time unknown or infrequent. This was inherent in the nature of the Permanent Settlement and subsequent Regulations, but since 1859 the situation has much changed. At the present moment whatever influence the zamindars and tenure-holders exercise over the tenants is not mainly due to their position under the Permanent Settlement but to their activities in the economic field. The zamindars and tenure-holders are not only regarded as landlords but as the friends, philosophers and guides of the tenants. They supply the rural credit, they stand by the tenants at the time of the latter's distress and needs. They also arbitrate or settle disputes among the tenants and also serve to maintain the peace and order in the villages; otherwise simply as landlords any idea of their overlordship seems to be ridiculous. There may be cases of oppression even now here and there but they are nothing compared with the benefits derived by the tenants from their immediate landlords. These benefits have created a traditional respect in the mind of the tenants for their landlords.

**Q. 12.** We have by facts and figures with historical background shown that the Permanent Settlement was considered to be a necessary evil at the time when it was made. It no doubt led to certain evils, but at the same time it created a social and economic structure which has its merits too and after a struggle of almost over a century when the conditions have considerably settled down and the drawbacks of the system are being and can be otherwise remedied no lover of ordered progress of society would advocate the abolition of the Permanent Settlement without overwhelming reasons. The abolition will create a sort of revolution through which it will probably take another century to bring back stable conditions. The wisest course, as it seems to us, would be reformation by way of remedying the defects and not revolution by total demolition of the structure to which the people have become accustomed after a struggle of over 100 years. If it can, however, be proved that the abolition of the Settlement would result in real benefit to the tillers of the soil or to the country as a whole we should not stint any measure for the abolition of the system, but the materials at our disposal do not seem to justify our recommending this drastic course. On the other hand, if the life of the land-owning classes is made miserable by imposition of fresh tax on agricultural income and making realisation from their tenants difficult as the present-day tendency seems to be, we would strongly favour the abolition of the system. We shall deal with this point more fully below.

**Q. 13.** From the statistics supplied to us (*vide Statement X*) it does not appear that if the zamindars and tenure-holders are removed from the scene 75 per cent. of the raiyati assets would be available to the State coffers but the gross profits of the proprietors and tenureholders of about 12 crores of rupees may be available. If, however, the (a) cost of collection, (b) loss from profits unrealised, (c) additional cesses imposed upon the landlords, (d) interest of the capital outlay made by these land-owning classes, (e) additional cost incurred by them for assisting the State, and (f) the charge for maintaining charitable and benevolent institutions, etc., are taken into consideration we do not think that the income estimated from abolition of the Permanent Settlement will be actually available. We apprehend that if the abolition is resorted to for the sake of increasing the income of the State, it will simply lead to the oppression of the tenants and result in throwing thousands of people out of employment. If it can be shown that after meeting all the charges the State will make a net profit of about 12 crores of rupees by abolition of the system, which we very much doubt, we would prefer the abolition of the system by paying adequate compensation to the holders of the different intermediate interests between the State and the tenants. We are, however, fully convinced and conscious that the position of the intermediate tenure-holders and zamindars is precarious under the existing things owing to

(i) economic depression, (ii) revolting attitude of the tenants due to various iniquitous legislation such as Bengal Agricultural Debtors Act, (iii) importation of foreign revolutionary ideas, and (iv) also the imposition of the onerous duties of collecting cesses without adequate provision for prompt realisation of them or even the rent. Under these circumstances the imposition of any further tax such as tax on agricultural income will be simply unbearable. The result of such imposition will be crushing to the middle and landholding classes. It is much better that the interests of these classes should be bought off than that they should be crushed and annihilated under a ruinous system. The introduction of temporary settlement will lead to the very same conditions which existed before the Permanent Settlement and it is better that the State should bring itself face to face with the tenants and protect itself from subversive tendencies than make the landholding class the scapegoat of sins of other people. However much we may desire the retention of the Permanent Settlement we cannot advocate a system which will keep the shadow without the substance. If it is desired to give relief both to the tenants as well as other classes of people a fixed principle should be adopted for fixing the rent of the cultivators preferably with reference to the produce of the soil. We know that this proposal was several times mooted before and rejected, in our opinion, on insufficient grounds. If a maximum is fixed at a sufficiently low figure in order to meet various contingencies and provision is made for variation even within the maximum under certain specified circumstances, we think the objections raised may be met but at the same time there will be protection of the tenants against high rate of rent. Further the tenants will have in most cases a good margin of profit to maintain themselves. Again there should also be provision for liberal remission to all the classes of people from the proprietor down to the tiller of the soil in years of failure of crops and other visitations of nature. If on the other hand resources of the State have got to be augmented by imposition of fresh taxes on the proprietors and tenure-holders the abolition of the Permanent Settlement is considered by us to be the better alternative. We prefer this course because the State by which we mean the Ministry in power, will then be very circumspect in introducing legislation or giving encouragement to agitation, which will tend to raise exaggerated hopes in the minds of the tenants and thus indirectly incite them to create troubles. At the present moment it seems that the land-owning classes are regarded as parasites at whom both the Ministers as well as the agitators can cavil with impunity.

**Q. 14.** We have suggested abolition of the Permanent Settlement as an alternative measure under certain circumstances. If this suggestion is accepted we would certainly recommend that adequate compensation to the zamindars should be given. In giving this compensation the improvements and the actual capital outlay made by them and

the potentiality thereof should be taken into consideration. Where no such considerations will arise the price may be calculated at more or less 20 times the gross profits. Each case will have, however, to be judged on its own merits. We would like that the payment be made in Government bonds. It is not possible for us to give an estimate of the total sum required.

**Q. 15.** The bonds should be redeemable more or less after 20 years and carry interest at  $3\frac{1}{2}$  per cent. per annum.

**Q. 16.** We have to a certain extent indicated above the effect of the State purchase of the zamindaris on the social structure of Bengal. We think that the effect will be revolutionary. Many people will be thrown out of employment, the strong bulwark of ordered progress and development will be taken away. Socialism and communism will find a more fertile breeding ground, but the authorities at the helm of affairs of the State will be more sober, circumspect and cautious. In one word, the steel frame of the present social fabric will, to a considerable extent, break down. Of course, some people think that out of this chaos a much better order of things will emerge, but in our limited vision we cannot conceive how many generations it will take, if it takes place at all, to settle down.

**Q. 17.** We have already answered this question. If the Permanent Settlement is abolished it must be abolished root and branch. Retention of the tenure-holders will be inconsistent and incompatible with the abolition of the zamindaris. We have already stated that we cannot foresee of what advantage will all this abolition be.

**Q. 18.** A large collecting agency will have to be employed at a huge cost which it is not possible for us to estimate.

**Q. 19.** We doubt very much if the raiyats would prefer to go under Government direct as we do not think that the khas mahal raiyats enjoy any advantage over the tenants under the proprietors. Barring some oppressive people the landlords are generally more lenient to the tenants than the Government is to the raiyats in khas mahals. The rigour of collection, the incidence of rent and facilities for credit appear to be more favourable under the proprietors.

**Q. 20.** We have practically answered the question before. The subinfeudation has not entailed any additional burden on the tenantry; it has only curtailed the income of the zamindars.

**Q. 21.** We have already indicated our reply to this. The State purchase of all the tenures will lead to enormous increase in unemployment which in its turn will create confusion in society. On the other hand, it may give industrial and commercial bias to the middle-class people.

**Q. 22.** If the zamindaris and tenures are purchased by the State their homesteads and khas lands should be considered as raiyati holdings, the rent to be fixed with reference to the actual or probable produce, or, in the case of homestead lands, according to custom.

The criterion for the ascertainment of zamindars' and tenure-holders' khas lands will, in our opinion, be the quantity of land that is actually cultivated by hired servants and temporary bargadars.

**Q. 23.** The occupancy right of raiyats appears to have been first created by Act X of 1859, but the germ of it existed even in the time of Hindu rule when patriarchal family found the lands occupied by them to be too much for cultivation by themselves and inducted tenants upon them. The khudkasht raiyats of pre-British and British periods practically enjoyed the benefits of occupancy holding but the paikast raiyats were first admitted to this right under the aforesaid Act.

**Q. 24.** We have already dealt with this question. In the Hindu period, all the sages agree to think that the occupier of the soil who first came upon the land and reclaimed it, i.e., patriarchal families were the proprietors of the soil. The tenants inducted by them for the cultivation of excess lands were not necessarily the proprietors. Under the Muhammadan rule in theory it seems the king was the proprietor of the soil by virtue of conquest but in practice the tenants were allowed to remain as before. These people paid taxes to the ruling powers for the protection of their person and property in the shape of certain share of the produce of the soil.

The proprietorship of the soil enjoyed by the occupiers of it was certainly of a limited character as their enjoyment was subject to payment of their dues to the ruling power. The proprietorship of the tenants was generally dependant upon the residence in the village. Mr. Phillips in his Tagore Law lectures speaks of the khudkasht raiyats thus :—

"From the description I have given of the position of this class of raiyats, I think it clearly appears that they had proprietary rights of a very complete kind; but they do not seem to have been of that unlimited kind which we understand by a fee simple" (page 19).

**Q. 25.** We are strongly in favour of confining the occupancy right to the tenant actually cultivating the soil himself, through bargadars or by hired labour. It should not be extended to more than one grade of tenants. The subinfeudation by occupancy raiyats certainly leads to complicated and anomalous state of things. It stands in the way of adopting a fixed principle of fixing the rent on the produce basis.

**Q. 26.** We would recommend prohibition by statute any sub-letting by occupancy raiyats and any tenant sub-letting his land should be

regarded as a tenure-holder to the extent of the land sub-let and his interest should be dealt with in case of abolition of the Permanent Settlement in the same way as that of the tenure-holders.

**Q. 27.** The intention of the Permanent Settlement so far as the non-agriculturists are concerned, does not appear to be very clear. But we are in favour of giving the privileges of occupancy rights to all actual occupiers of the soil either for residential, agricultural or business purposes. In our opinion the non-agricultural tenants require the same protection and the same amount of certainty about their tenancy as the agricultural people. "In ancient times, the three principal sources of a king's revenue in India were his share in the produce of agricultural lands (*vali*), taxes levied upon homestead lands either in villages or towns (*kara*), and taxes realised from persons carrying on trades and industries (*sulka*)".—*Vide Mr. Mitra's Land Law of Bengal*, page 383. Again, "the word *kara* was used for money rent payable for land, as distinguished from a share of the produce of agricultural lands. The money rent payable for homestead lands by artisans, tradesmen and labourers, quit rent paid by persons who were favoured by the king and who held under royal grants, and all other taxes paid for the use and occupation of land or water came within this branch of revenue. In agricultural villages, a shopkeeper supplying articles to the agricultural population was required to pay the tax known as *kara* for his homestead land." (*Ibid*).

We do not find that during the Muhammadan period there was any change in the system. During the British period we find at page 385 the following:—"There are no legislative provisions as to non-agricultural lands, except such as are contained in Transfer of Property Act, the Indian Contract Act and stray sections in the Revenue and Rent Laws. Act X of 1859 and Act VIII (B.C.) of 1869, as I have said, did not touch the question of the rights and liabilities of tenants of homestead and other non-agricultural lands, though the ever-increasing population, agricultural as well as non-agricultural, demanded legislation. When Act VIII of 1885 was in course of preparation, an unsuccessful attempt was made to have a comprehensive code for lands agricultural as well as non-agricultural." Our recommendation that the non-agricultural holdings whether for homestead or other purposes should have the similar protection and privileges, as in the case of agricultural lands, finds strong support in the same book. The whole of the lecture XII is very interesting and instructive. We cannot resist the temptation of quoting the following: "To a nation which has the most sacred regard for the land where its ancestors lived, to persons who have extraordinarily deep affection for ancestral homesteads—dearer than heaven itself, the idea that no right can be acquired in homestead-land, however long

the period of occupation may be, is repugnant in the extreme. People have generally a notion that the holder of a piece of home-stead-land acquires by long occupation the right to continue in possession of it, and the legal profession and the judges have very frequently to undeceive them. The hardship of the law, as it is at present administered is well known.'

**Q. 28.** We have already indicated that the statutory rights intended to protect the interest of the cultivator should persist in land which has been converted to use for non-agricultural purposes. But the rent of the land should be on the basis of its probable agricultural produce. On the business carried on this land income-tax may be levied according to law but the land should not be taxed twice over.

**Q. 29 & 30.** Yes, it is on the increase. It is due to the following reasons:—

- (a) Economic improvement of some of the raiyat leading to acquisition of more lands than they can cultivate themselves.
- (b) Acquisition of raiyati holdings by purchase by persons who are not cultivators themselves.
- (c) Spread of education giving rise to a false sense of prestige and erroneous appreciation of the dignity of labour and add to these, the causes enumerated in question 30.

**Q. 31.** We have not ample materials at our disposal to supply the statistics wanted in this question. In our experience a considerable section of the bargadars also holds land in raiyati and under-raiyati rights, but we cannot say whether they form the majority.

**Q. 32.** We have already stated that the right of occupancy should be limited to one class of tenants (*vide* reply to question 25) and the rent payable by them should be fixed on a definite principle. By applying this procedure the bargadars will be saved.

**Q. 33.** The soundness or otherwise of the barga system depends upon the share of the produce payable to the landlord. Even if the system be unsound to a certain extent its abolition or future prevention will lead to serious and complicated results which it will be well nigh impossible to meet.

**Q. 34.** We do not advocate conferring occupancy right on bargadars for reasons indicated in the question itself. We may add the following:—

- (i) It will stand in the way of fixing raiyati rent on fixed principle advocated by us.
- (ii) It will lead to extension of occupancy rights to more than one grade of tenants.

**Q. 35.** In our opinion the maximum share of the produce may be fixed from one-third to half according to circumstances.

**Q. 36.** The wages of agricultural labourers depend upon the demand and supply. Ordinarily it varies from 4 annas to Re. 1 per diem. The position of the labourers appears to be worse than that of the bargadars and under-raiyats owing to the uncertainty of their employment and income.

**Q. 37.** We have reasons to believe that the unrestricted right of transfer given by the Act of 1929 has led to the passing of considerable areas of raiyati lands to non-agriculturists and that the further facilities given by the Act of 1938 has considerably increased this tendency. This is no doubt prejudicial to the interest of the cultivating raiyat in as much as if the economic depression continues and the price of the produce of lands does not sufficiently rise, it will lead to the conversion of the major portion of the cultivating raiyats into bargadars or labourers. However, under the existing state of things, the restriction of transfer of agricultural lands to agriculturists only is impracticable.

**Q. 38.** In our opinion the minimum size of an economic holding should represent the normal capacity of a plough and a pair of bullocks to cultivate. It will certainly vary according to circumstances, but the average may be taken at 15 bighas.

**Q. 39.** Our replies to the questions under question 39 are in the affirmative.

**Q. 40.** The consolidation of holdings for more economic cultivation is highly desirable, but there are serious difficulties in bringing it about. Some sort of co-operative system may be suitable but we are not sure if it can be made compulsory by legislation.

**Q. 41.** Special facilities indicated in this question are no doubt highly desirable; one of these facilities may be the conferring of the right of pre-emption on the nearest tenant possessing uneconomic holding.

**Q. 42.** Accumulation of large areas in one particular hand is no doubt undesirable because it will lead to the creation of a body of farmers, but we think it will be difficult to prevent this so long as occupancy rights are transferable without restrictions.

**Q. 43.** Coparcenary is not always detrimental to good cultivation. It is economic if the lands are jointly cultivated. In order to ensure this sort of joint cultivation restrictions may be placed on subdivision of holdings, but unfortunately the tendency of the present legislators is in the opposite direction.

**Q. 44.** It is very difficult to suggest measures to stop or reduce the evil effects of coparcenary and fragmentation in estates and tenures. The only method that suggests to us at the present moment is the introduction of some system of compulsory appointment of karta or common manager.

**Q. 45.** Our reply is in the affirmative as we have practically suggested this in reply to question 44.

**Q. 46.** As far as we have been able to read the history we think that it was contemplated that one of the means adopted by landlords for increasing their income or profits would be by enhancing the rates of rent payable by tenants. We proposed to deal with this subject more fully in connection with the next two questions, but here we may point out that Lord Cornwallis in his Minute, dated 3rd February 1790, suggested that one of the means of raising the income of an estate would be by inducing the raiyats to cultivate the more valuable articles of produce. This certainly indicates that the enhancement of rates of rent payable by tenants was contemplated.

**Q. 47.** This subject seems to have a checkered history and has been dealt with elaborately in the Great Rent Case, *Thakurani Dasi vs. Bishesswer Mookherjee*—3 W. R. Act X, page 29, and also in the letter of the Court of Directors, dated 15th January 1819. It seems to us that whatever implication there might have been in the use of the term "pargana rate" in the various Regulations, the whole trend of the various Regulations and the implication of conferring proprietary rights on the zamindars demolish any idea, that the framers of the Permanent Settlement might have contemplated, of the permanency and fixity of rate of rent referred to in this question so far as the tenants are concerned. Regulation VIII of 1793 enabled the proprietors and others to add numerous additional levies to the assal or original rate and to consolidate the whole into one specific sum. Regulation V of 1812 explained by section 2 of Regulation XVIII of 1812 gave unrestricted powers to the zamindars of imposing any terms of settlement on the tenants. Before this the zamindars could not settle for more than 10 years. In this connection the following extract from paragraph IX of the aforesaid letter of the Court of Directors will give us a true idea of the position:—

"The inference seems unavoidable that the persons for whom the Permanent Settlement was made, and those who, by inheritance or purchase, may succeed them, are authorised by the existing law to oust even the hereditary raiyats from possession of their lands, when the latter refuse to accede to any terms of rent which may be demanded of them however exorbitant."

The judgment of Trevor J. in the Great Rent Case no doubt puts a somewhat different interpretation on the provisions of Regulations V and XVIII of 1812, but the conclusion is irresistible that even if there was any contemplation in the minds of the framers of the Permanent Settlement to ensure permanency and fixity of the rates of rent, it was entirely overshadowed by the concern of the Government at that period for the punctual realisation of the land revenue and they failed to determine or could find no opportunity to determine the rights of the raiyats. In other words, any such contemplation was subsequently given up in practice.

The position of the khudkasht raiyats existing before the Permanent Settlement was to a great extent safeguarded by later Regulations, but that of the raiyats who were introduced subsequently, was made absolutely precarious. "They were" in the language of the judgment of Trevor J. in the Great Rent Case "reduced into mere tenants at the will of the zamindars who might in any year eject them and place in their stead any tenant competing for the land." "It is in short" the judgment goes on to say, "introducing into this country competition in place of customary rents."

We may support our belief from another point of view. It is a historical truth that "consciously or unconsciously Lord Cornwallis was led to introduce an imitation of the English system of landed property. The State assumed to itself and made over to the zamindars its own supposed proprietary right of the soil, as if the cultivators had no right to hold land against the will of the Government and its grantees." From this point of view we cannot conceive that there can be any contemplation in the minds of the authorities to secure permanency and fixity of the rates of rents of the tenants.

**Q. 48.** Does not arise in view of our replies to the previous questions.

**Q. 49.** In our opinion it is not a practical proposition, nor have we got any materials for it, to reduce the rents of tenants to the level prevailing at the time of the Permanent Settlement. We have indicated above how the legitimate grievances of the tenants may be removed. Our definite proposal is that although we cannot go back to the level of the rent payable before the Permanent Settlement, we can at least go back to the principle of assessment of rent on the basis of the share of produce as prevailed in this country from time immemorial to the time at least of Shuja Khan's Subedari, which was considered the era of "good order and good government." The advantage of this system is that a sense of certainty will be introduced in the relationship between the raiyat and his immediate landlord. At the same time it will provide for automatic enhancement or reduction of

rent according to the price of the produce. Of course, if the assessment is made in money, calculation will have to be made on the basis of the price of produce of at least 10 years and it may have to be revised periodically on the basis of fluctuation of price. If, however, rules can be framed for realisation of rent in kind on the lines prescribed by the *Ain-i-Akbari* everybody's interest will be sufficiently safeguarded. In the former case provisions for liberal remission in case of failure of crops will have to be made, but in the latter case no such provision is necessary. The proportion of the share of produce for rent will have to be fixed according to the present conditions, but in no case it should exceed 1/6th of the actual produce of the land.

**Q. 50.** Does not arise.

**Q. 51.** The history, as we have read it and as we have indicated above, does not justify the conclusion that the intention of the framers of the Permanent Settlement was that all future settlements of waste lands should be made at the pargana rates.

**Q. 52.** We are in favour of a definite share of the produce. We cannot see how under this system the poorer land will pay higher rent in proportion. The poorer land will pay according to its poor produce and classification. In our opinion this system has an immemorial tradition behind it and seems to be the simplest and most equitable. Of course, as we have indicated above, the share may not be the same for all classes of land, subject to a maximum it may vary according to circumstances. The land may be divided into different classes according to its powers of production as was done under Todar Mal's systems. About Todar Mal's system the following quotation from Field's Landholding and the Relation of Landlord and Tenant (2nd Edition—page 439) may be helpful: "If the merits of any reform are fairly judged by results, the system of Todar Mal must be held to have proved beneficial to the raiyats and just to the State, seeing that it lasted without material variation for more than a century during which time the country was said to have been in a high state of cultivation and the raiyats in most prosperous condition."

**Q. 53.** We do not believe that any fixed principle is followed in settling the present rents paid by the cultivators. It is no doubt true that in practice rates differ for lands of similar value in almost every estate, if not in every village.

**Q. 54.** We do not think that as a general rule the poorer and weaker tenants pay higher rents. Now a days higher rents follow higher demands for the land.

**Q. 55.** We have already made our recommendations on the point. We are strongly of opinion that a fresh record of rights must be prepared on the basis of assessment suggested by us.

**Q. 56.** We have already answered this question. We may repeat here that subject to the maximum of 1/6th of the produce the share may vary according to the classification of the lands suggested above.

**Q. 57.** We have practically answered this question before. In our opinion the principle should be fixed in perpetuity, but if the assessment is made in money, revision of the rents may have to be made periodically to meet the fluctuation in prices. It may be done every 10 years.

**Q. 58.** We are against the substitution of an income-tax in place of rent. This will lead to perpetual friction and harassment.

**Q. 59.** The main defects in the principles and procedures for fixing fair and equitable rents and for enhancing rents in Bengal Tenancy Act are that (*i*) they have no relation to the actual produce of the land and they take the existing rent as fair and equitable, (*ii*) the mode of ascertaining the prevailing rate is faulty and may not be equitable unless the average rate of a much wider area than is contemplated in section 31 is found out. The prevailing rate of one or two villages under a grasping zamindar may be inequitably high.

**Q. 60.** The enhancement as a result of fluvial action should be divided between the landlord and the tenant as it is not earned by the labour of either. If the whole is given to the tenant, the proprietary right of the landlord is denied.

**Q. 61.** We would not object to enhancement on account of rise in prices provided the total rent does not exceed the proportion of the share of produce (1/6) indicated in our previous answers.

**Q. 62.** It is a very difficult question to answer. We would not object to enhancement provided the principle we have enunciated above is conformed to. We are not in favour of multiplication at the cost of the landlord or the State.

**Q. 63.** We have already stated that it is very difficult to ascertain an equitable prevailing rate. If, however, there are provisions for reduction, there should be corresponding provisions for enhancement.

We have no reasons to fear that at the time of either enhancing or reducing the rent improvements effected either by the raiyats or the landlords will not be taken into consideration. We do not, however, concede that the salami respresents rent paid in advance.

**Q. 64.** Yes, we are in favour of reducing high contractual rents and limiting rents for new settlement according to the principles enunciated by us in answering previous questions.

**Q. 65.** In our opinon there should have been provision for ascertaining and recording the quality of the lands of the different tenancies

and the nature of their produce. Without a knowledge of these factors we think it is very difficult to settle a fair and equitable rent. The presumption that the existing rent is fair and equitable seems to be defective.

We would also like that there should be provision for a record of non-agricultural interests also without which not only the condition of any estate cannot be ascertained but also the real economic position of the province cannot be found out.

**Q. 66.** There are some such estates. We may cite the following:—

Khararia Chota Zila—Zemindar Babu Peari Mohan Rai—Tauzi No. 171-72 Khulna Collectorate, now under the management of the Court of Wards:—

It is reported that the Settlement Officer allowed enhancement at 2 annas per rupee in four cases only out of 500 and rejected enhancement in rest of the cases. The Special Judge on Appeal decreed enhancement at the rate of 14 annas per rupee in all these cases. The references of cases may be supplied if required.

**Q. 67.** We believe that the revisional settlements are usually made with the primary object of enhancing revenue. At least in our experience we have found the tendency of the Revenue Officers to be so. At the last Settlement in this district it appears that out of 32 tauzis enhancement was effected in all but two cases. Of the latter in one case the assessment remained the same as before and in the other there was a reduction of 3 pies only.

**Q. 68.** In the last answer we have shown that in 30 out of 32 cases there has been enhancement. In the following case the enhancement is spectacular and seems to be unfair:—

| Touzi No. |    | Previous    | New         | Increase. |
|-----------|----|-------------|-------------|-----------|
|           |    | assessment. | assessment. |           |
|           |    | Rs. a.      | Rs.         | Rs. a     |
| 919       | .. | 2,250 0     | 11,205      | 8,955 0   |
| 1005      | .. | 938 0       | 3,685       | 2,747 0   |
| 1006      | .. | 464 3       | 3,920       | 3,455 13  |
| 1016      | .. | 1,313 0     | 7,088       | 5,775 0   |
| 1017      | .. | 938 0       | 4,084       | 3,146 0   |
| 1018      | .. | 1,013 0     | 4,065       | 3,052 0   |
| 1019      | .. | 1,406 0     | 5,613       | 4,207 0   |

**Q. 69.** The enhancement of rent on the basis of previous 10 years' increase in prices at a time when the prices are going down is certainly faulty and creates an anomalous and difficult situation. The hardship on the tenants in this circumstance can easily be imagined.

**Q. 70.** The reasons for differing rates of rents for similar lands within khas mahals are obvious. They seem to be; (a) rents are settled without any fixed principle; (b) customary rate is no longer in existence; (c) over-zealousness of officers has led to introduction of high rates at some places, and (d) differing competition for securing lands in different areas.

**Q. 71.** It is a fact that in permanently settled areas remissions are very seldom given, if at all, and in khas mahal areas they are not given to a sufficient extent. The reasons seems to be the anxiety of the Government and their officers to prevent the revenue from falling to any appreciable extent. Rules may be made by conferring wide powers, not on paper but in reality, on the Commissioners and Collectors to grant liberal remissions in case of failure of crops.

**Q. 72.** Statement VI of the list of statistical abstracts has given the average yield of different varieties of produce and we have no materials to differ from it. The cost of the cultivation, however, is different for different crops. For paddy in some areas in this district it is very small and the maximum may be Rs. 16 per acre excluding only the labour of the agriculturist himself. The cost for the upkeep of the cattle is small as they are mainly fed out of the straw and other by-product and produce of the land. The depreciation of instrument is negligible, but the depreciation of the livestock is sometimes very great owing to the prevalence of epizootic diseases. Taking all factors into consideration we do not think that the cost exceeds Rs. 20 per acre including everything; it may be as low as Rs. 10 per acre, in some areas.

In case of jute the cost is increased by 25 to 50 per cent. according to the nature of the season.

In case of sugarcane the cost is not less than 3 times of that of paddy. It is needless to say that the cost of cultivation is the minimum in case of economic holding but for smaller holdings it naturally rises.

**Q. 73.** It is a matter of common knowledge that the productivity of the soil in this district is generally on the wane. The reasons are as follows:—

- (a) Gradual rushing up of the saline water in the rivers thus increasing the saline areas.
- (b) Due to (a) gradual extension of embankments and consequent prevention of deposit of silt in large tracts.
- (c) Insufficient supply of silt-laden fresh water through the rivers of this district owing to their gradual decay.

(d) Absolute want of scientific manuring of the soil. People have got to depend upon the old method of manuring by cow-dung.

(e) Insufficient manuring in case of rotation of several crops.

The negligence of the Government to take any steps to improve the fertility of the soil is culpable. Some spasmodic efforts are made for distribution of seeds and manures in very limited areas without any regular system.

**Q. 74.** Very little advantage has been taken of the different Acts mentioned in this question for improving lands of agriculturists. There are inherent defects in all these Acts which make it almost impossible for the agriculturists to take any advantage of them. The main defect lies in the inadequate provision for advancing money for effecting any improvement. In this district some attempts were made to put into operation Bengal Sanitary and Agricultural Improvement Act, but want of facility for securing advance of the cost, the cumbrous procedure for preparing the scheme and of obtaining consent of the various departments and officers of Government led to the ultimate abandonment of the projects. The Acts are regarded more as penal or punitive than beneficial.

The Bengal Rural Development Act is a recent enactment and has practically not commenced functioning in this district.

**Q. 76.** Selami at the rate of 4 to 10 times the annual rent is realised from the tenants when granting settlement of raiyati holding to them for the first time. (See Crown Estates Manual, rule 88.) So far as we know, Government spends very little for the improvement of the agricultural condition of these lands after settlement. In this district some khals have been excavated and sluice gates constructed.

**Q. 77.** We have already shown that the general policy of the Government regarding the land system of Bengal has led to the uneconomic condition of the raiyats. Practically speaking at or about the time of the Permanent Settlement and till 1859 the policy of Government was uncertain and erratic leading to the obliteration of the customary rate which was mentioned in the Regulations as paragana rates. Since 1859 some steps have been taken to improve the condition of the raiyats but at the present moment it seems that there is a tendency to free the tenants from all obligations and thus creating a state of things which will ultimately re-act upon and ruin the tenants. Even now it does not seem that the Government has hit upon any fixed or systematic policy. In our opinion, as we have repeatedly stated before, unless equitable and fixed principles of assessment of rent and of

limiting the status of occupancy to a particular class of tenants are adopted, there cannot be any peace or prosperity among the raiyats.

**Q. 80.** We suggest the following for increasing the income of the cultivating raiyats:—

- (a) Consolidation of uneconomic holdings into economic ones.
- (b) Introduction of a system of growing crops by rotation where possible.
- (c) Introduction of scientific methods of manuring and cultivating.
- (d) Arrangement for securing proper markets for the produce of the soil.
- (e) Introduction of some occupation of the cultivator in slack season, i.e., some sort of home industries.
- (f) Introduction of co-operative system of marketing of the produce.
- (g) Introduction of a system of cheap and easy rural credit.
- (h) Training the agriculturists in the habit of thrift.
- (i) Introduction of hygienic education.
- (j) Improvement and proper preservation of livestock and insurance thereof.
- (k) Adopting a fixed and equitable principle of assessment of rent.
- (l) Improving the productivity of the soil by resuscitating the dying rivers and introduction of a system of irrigation where necessary.
- (m) Reduction of stamp duties and cost of registration.

**Q. 81.** The increase in population is no doubt contributing to the poverty of the agriculturists but we do not consider that it is one of the main reasons. If adequate measures are taken for proper cultivation of the soil including lands which are still lying waste and for economic improvement of the cultivator by means suggested above, we believe this province can easily provide sustenance for its present population.

**Q. 82.** We are definitely of opinion that the pressure cannot be relieved unless more avenues of employment are found out. The employment of the people in army and navy and commercial enterprise, both inside and outside the country, is unfortunately very much restricted. Unless facilities in these directions are given by proper education and encouragement the mere creation of a number of coolies by employing them in Government aided factories will not solve the problem. We are surprised to be told that the only means of relieving the pressure lies in diverting the population to large industries that is practically by creating so many coolies. We do not rule this out

altogether but if the measure is confined to this alone, it will cripple the capacity and potentiality of the nation.

**Q. 83.** No efficient organisation, Government or private, exists for supplying cheap and easy credit to the agriculturists. Agricultural credit can be improved by the following methods:—

- (a) Establishment of a network of co-operative credit societies under efficient supervision with facility for securing finance and aids from Government so as to enable them to advance loans on easy terms with the minimum risk of collapse.
- (b) Regulating the terms of loans given by the village mahajans by prohibiting high rate of interest but at the same time giving them facilities for easy collection. In our opinion this source of rural credit should not be allowed to dry up altogether.
- (c) Provision for granting loans by Government through reliable agencies on easy terms.

**Q. 84.** We do not know on what materials the estimate has been made. Although unless the materials are placed before us, we cannot give any definite opinion, but, so far as we can see, we think that the estimate is exaggerated. We have already suggested in connection with the last question how any exorbitant rate of interest demanded by or due to the village mahajans can be stopped.

**Q. 85.** It does not appear that the co-operative credit societies have succeeded in tackling credit problem of the agriculturist to any appreciable extent. It is not due to the rate of interest which can be regulated or reduced at any time, but it is mainly due to bad inefficient State supervision and economic depression. It is a pity that such an institution fraught with so much beneficent possibility has been allowed to decay by—if we are permitted to say so culpable neglect. The co-operative societies have wandered far away from their aims and ideals. They are now no better than so many loan offices with even greater evils than are to be found in the latter. For want of proper propaganda, education and prompt and adequate steps, the character which is to be the main security of co-operative societies has lamentably deteriorated. It is unfortunate that measures have now got to be devised for checking the evils. The progress of the movement, so far as this district—nay the whole province—is concerned, seems to be at a standstill. During the economic depression when the societies should have received adequate assistance from the State enabling them to rise equal to the occasion they practically faltered and failed for want of such assistance. The people who are the members of the co-operative societies have now found out the flaws and loopholes in the law on the

subject and are now evading payments with impunity in most cases. They are now freely resorting to loans from village mahajans and other sources by hypothecating all their assets. The result is that the movement is practically on the verge of collapse and unless bold steps are taken with adequate fund of imagination the situation cannot be saved and a most helpful institution and strong pillar of good government will be destroyed. Up till now, so far as this district is concerned, we do not think that the percentage of agriculturists who are members of the societies will exceed 2 or 3. We do not know of any society which has actually succeeded in wiping out the debts of their members. In the Khulna Central Co-operative Bank some years ago a definite attempt was made in this direction and actually in one or two societies all outside debts were wiped out but within a few years the members incurred debts probably heavier than before.

**Q. 86.** In our opinion the Bengal Agricultural Debtors Act is an ill-conceived piece of legislation. The absurdities or iniquities of its provisions have been judicially noticed more than once and also have been severely criticised in the Press specially in the Calcutta Weekly Notes. We do not believe that this Act will confer any material benefit on the agricultural debtors. The cumbrousness of its procedure, the complexities of its provisions, by which powers wider than those enjoyed by judicial officers of long standing have been vested in a set of people who have got no legal training and about the honesty of many of whom there may be serious doubt, stand self-condemned. The result has been, in our opinion, inordinate delay in disposal of disputes, not infrequent corruption, very few awards on the basis of mutual consent of debtors and creditors and iniquitous and sometimes absurd decisions. In some cases it may appear that debts of certain agriculturists have been considerably reduced on compromise but in many such cases the economic condition of the debtor is such that even they will be unable to pay this reduced sum. This will inevitably lead to resort to certificate procedure. Although in this district the Act has not been in operation for full one year numerous certificate cases have already been filed. On the other hand the operation of the Act has raised high hopes in the minds of the debtors of evading the payment of just dues and many people who are not agriculturists in the proper sense of the term are taking shelter under its provisions. It has provided a shield for the dishonest people and is unduly hard upon the creditors in numerous ways, e.g., they have got to pay court-fees sometimes twice over, their absence is penalised while that of the debtors is condoned and so on and so forth. Its provisions for appeals are incomplete, inadequate and sometimes inconsistent. It is difficult to enumerate all its defects in the short space that may be available for answering a question of this nature. We would not have, however,

minded very much if this law would have really led to the improvement of the rural credit and liquidation of agricultural debts. It seems that it has completely dried up the sources of rural credit. The agriculturists are now-a-days not incurring any debt—because they are not getting any loan. They are now being compelled to part with their valuable lands by kobala for meeting their necessities of life. In our opinion this Act should be repealed without delay and powers should be given to Civil Courts to make equitable reduction of debts and arrangement for payment by instalments in suitable cases in which agriculturists are concerned. If the Act is allowed to work for any length of time the landlords, the banks including the co-operative societies and the agriculturists themselves will all be ultimately ruined.

**Q. 87.** This suggestion seems to be a good one.

**Q. 89.** The machinery available to the landlords for prompt realisation of rent after the amendment of the Bengal Tenancy Act of 1938 has practically ceased to exist. We cannot conceive how the tenants can be harassed in any proceedings permissible under the present law which seek to realise the just dues from them. In case of false claims provision may be made for penalties but the landlord should be armed with adequate legislation for prompt realisation of their rent. This can be done through Civil Court in the way suggested by the Select Committee of the Bengal Legislative Council at the time of the enactment of the Amendment of 1938 (published in *Calcutta Gazette* of 17th March, 1938).

**Q. 90.** We are not very much in favour of recovery through the Public Demands Recovery Act. We have already indicated our suggestion about the machinery for prompt realisation in connection with the last question.

**Q. 91.** We strongly favour the revision and modification of Revenue laws in one simple and more up-to-date form. Our reply to the latter part of the question is also in the affirmative.

**Q. 92.** In our opinion the revenue Sale Law may be amended by giving the defaulting zamindars and other persons whose interests are affected by sale an opportunity to deposit their dues with proper compensation within one month from the date of revenue sale.

The Cess Act may be so amended as to relieve the landlords from the task of collecting cesses from their tenants or in the alternative adequate provision for collection charges should be made. The rent-free tenure-holders should be made to pay their cesses direct to the Collector as it was the practice sometime ago.

Occupancy rights should be conferred on all resident tenants agricultural or non-agricultural, irrespective of the length of possession.

**Q. 93.** In our opinion the following economic effects will result from the Amendment Act of 1938:—

- (a) It will deprive the landlords of a considerable amount of the landlords' fees.
- (b) By affording easy facilities for transfer many raiyats will part with their raiyati holdings and will be converted into a class of labourers.
- (c) The abolition of the speedy methods of realisation of rent will lead to difficulties in the realisation of rent resulting in the landlords running into heavy debts or losing their properties and the tenants in their turn will be ultimately saddled with heavy costs.
- (d) Many of the usufructuary mortgagees who are no other than tenants themselves will be reduced to poverty by automatic extinction of the mortgages.
- (e) The taking away of the landlord's right of pre-emption may lead to friction and litigation between rival landholders.
- (f) Facilities given for subdivision of tenancies will lead to undesirable and uneconomic fragmentation of holdings.

The answer to the last part of the question has been supplied by the Statement XIV of the list of statistical abstracts.

**Minute of Dissent by Mr. R. L. Biswas to the reply  
submitted by the Khulna Bar Association.**

**Q. 1.** The pious wish expressed in Regulation I of 1793 would have been exhaustive of duties and obligation for a nation of the standard, the framers of the Permanent Settlement were but to a class of people who are lovers of ease, devoid of all sense of nationality, it was not only not exhaustive but a failure that brought ruins upon the tenantry, the entire domain of whose income, viz., the landed property having been totally left at the mercy of the zamindars, the framers were mistaken in not promulgating some cut and dry provisions for the economic and other allied safeties and welfare of the province.

The Permanent Settlement took away from the tenant the right of proprietorship in land in which they had an enjoyment of the same for a long time. There is no recognised theory in Muhammadan Law that the King was considered to be the proprietor of the soil or that the occupation falls short of State recognition to confer the same in land, which being a solitary interpretation on the version of the Quran by Abu Hanifa finds no favour with the other Muhammadan jurists in theory or in practice and consequently the Hindu idea of proprietorship was akin to that of the Muhammadans.

**Q. 2.** That it was provided by the Regulations of the Permanent Settlement that the zamindars would influence their tenants to cultivate more profitable crops certainly has in it the force and intention that the zamindars being vested with powers would regulate the usage of the land to the economic interest of the province, where some European Indigo Factory Managers as zamindars set their foot towards this direction but having found the native zamindars robbing the tenantry right and left of their property putting them to inhuman tortures and very often driving them from their ancestral home and land at their very sweet will, the former class managed to come down far far below the highest standard of morality, the Englishman's concomitant boast to become a more formidable enemy to the ill-fated sufferers who were no better than common herd of cattle.

**Q. 3.** History does not record that the zamindars did anything materially for the economic development of the province which has got on the other hand in matters of reclamation the remarks of Messrs. Field and Baden-Powell strongly against them whose monetary advancement to the tenants in most cases was no grant but loan that had a sure promise of three-fold return at least, and their medical and educational relief can by no imagination be ascribed to their being zamindars who in consideration of their money and number have shown too little

inclination towards the same where non-zemindars' shares was no lesser in this province where commerce and industry having long been dead required none to play any part therein.

The English gentlemen on whom the task of framing the provisions of the Permanent Settlement fell were possessed of marvellous energy, great ability, the highest honesty of purpose, spotless integrity and strong sense of nationality, surely expected the same of the Indian gentlemen, the so-called proprietors, who were indolent, destitute of any sense of nationality as a result of the enervating climate of the province. What was committed to their mercy badly needed their endeavour, assistance, sympathy and encouragement for its economy and other sister developments promoting their national prosperity where their failure has been relentless. These persons, having no cut and dry rules imposing on them these duties and the expected requisite qualifications as aforesaid being wanting in them, did not rise above their lethargic habits and proved a total failure.

**Q. 4.** The persons who were entrusted with the rights and duties of proprietors were always revenue collectors in none of whom, from the study of the history of the real property of the province, we can conceive any right like that of proprietor, nothing to speak of any bigger one as is conceived by that word after the Permanent Settlement was concluded with the zamindars.

**Q. 5.** The word "pledge" must have a very poor significance. It could not have meant this kind of unholy deed which by no imagination can be conjectured to be a solemn one and that to do away with it is no breach of solemn pledge. It had no vestige of solemnity and the same having no legs to stand upon no amount of parliamentary actions, declaration or provincial enactment, done in sheer ignorance of the law of the land, can give it strength, sanctity and stability. Taking advantage of the ignorance that made them assume that they have the right to give the recipient with full knowledge that the giver had authority to confer deceived both the grantors and the owners whose presence not being requisitioned it was a sure innocent foolishness on the part of the Company's servants who, we are certain, could not have been prevailed upon to do this nefarious act if they had the knowledge of the law of the land but it was a crime pregnant with the highest kind of dishonesty on the part of the donees who can by no estimation of the English be allowed to enjoy the fruits of valuables got by deception that brought into being these unauthorised and illegal arrangements, the making away with which would by no means be a breach of solemn pledge irrespective of the donees' loss, troubles and investment, which we doubt very much, and if it was so they recovered beyond measures and human expectations from the tenants whose troubles, turmoils knew no bounds, and whose

sufferings pure and simple, bringing in no gains but loss, restlessness, uneasiness, famines and pestilence in crowd.

Of the three sources of finance, trade and industry being the foremost but beset with fears of loss, the Bengal moneyed men, indolent, lethargic and unenterprising as they were by nature found the zamindari after the Permanent Settlement to be a source of permanent income unfettered by any kind of apprehension of loss, pecuniary or otherwise, but pregnant with unfailing expectations of manifold gains with least exertions and decidedly set up themselves to acquire anyhow the rights of the so-called proprietors and disconnected themselves totally with the highest source of income for ever.

The only remaining source of income, agriculture (3rd source, viz., the income from services in foreign land being out of aspirations of an ease-loving, home-sick subject nation wanting miserably in zeal, fervour and honesty of purpose, and such other requisite qualifications), having the bad fortune to have fallen in the hands of classes of people devoid of common art and knowledge about agriculture in its true sense, unassisted by the so-called aristocrats whose help, sympathy and encouragement so badly they needed and who having very soon found that the revenue being fixed for ever and the rental ever increasing have been legislated to have no connection with the produce of the land, very wisely but unbecomingly from nationalistic view-point deliberately neglected to render any kind of help in most cases, produced the poorest income as an indirect but sure result of the Permanent Settlement which has beyond doubt crippled the financial resources of the province permanently.

**Q. 6.** I have already made out that the zamindars did materially not much towards the extension of cultivation. It was the pressure of population that demanded of the tenantry to exert themselves for the same of which we can safely ascribe 99 per cent. if not more, to the enterprise of the tenant goaded by the pressure of population.

**Q. 7.** On the authority of Mr. Field we find that  $\frac{1}{3}$ rd of the land of the province, remaining uncultivated at the time of the Permanent Settlement became cultured within a very few years on account of the pressure of the population and so we have no difficulty in arriving at the conclusion that  $\frac{1}{3}$ rd of 285 crores of rupees, the then existing rental, is the increment at the pargana rate, the rest minus the meagre negligible 1 per cent. of the zamindars' (endeavour ?) whose claim falls far below the same, is the result of enhancement.

**Q. 8.** I am at a loss to find out within the four corners of the provisions of the Permanent Settlement any scope of any ungenerous treatment accorded to the zamindars whose utmost penalty was the sale of the property gained as gift, the Baikunthabas being abolished

within the few months after the Permanent Settlement, that provided penal sections directly and indirectly encouraging inhuman tortures to be inflicted upon the tenants and consequently they were mercilessly belaboured, taxed with heavy fines and punished with whimsical imprisonments to escape which they were forced to flee away from their lands leaving behind their ancestral home and property in which they had some few days before the proprietary right as fruit of their labour and industry that cost them their life-blood and lives very often. Experience found very very few exceptions that were due to the exceptional benevolent temperament of the particular man totally unconnected with his being a Bengal zamindar whose natural tendency has been found to be the reverse.

The prevalence of somewhat higher khas mahal rate of rent which is the uninfluenced creation of the tenants themselves is a poorer instance of ungenerous treatment of the Government towards the tenants whose lesser rents under the permanently settled estates was in most cases forced to be competitive as a result of intrigue, tortures that multiply and never lessen the guilt which becomes palpable if we take into consideration the net income from the land.

**Q. 9.** I have already pointed out that the zamindars did very little to improve their estates by industry, enterprise and good management and given the reason thereof.

Besides other duties they were wanted to regulate the usage of the land to the economic interest of the province and to treat the tenants generously as they were treated by the Government whose expectations were a total failure where absenteeism has very little to do in consideration of the fact that absenteeism is a sure loss when the zamindar is a benevolent one but a greater boon when he is a tyrant.

**Q. 10.** Considering the astounding national character of the framers of the Permanent Settlement, so far we can conjecture, it was so, though it has resulted otherwise leading to a revenue system that by no means is beneficial to the province but only to the advantage of the landlord at the expense of the tenant and the same not only not has any reference to the produce of the land but provides for higher gains to the landlords, and bigger loss to the tenants.

**Q. 11.** The gross income of the province from paddy is 934 million rupees, from jute 166 million rupees and from other crops 335 million rupees; the lowest cost of cultivation amounts to 911.5 million rupees for paddy and 161.4 million rupees from jute and 313.2 million rupees for other crops leaving a total income to the tenants to the extent of 50 million rupees after payment of rent and the same brings a net income of 200 million rupees before the payment of rent. Deducting the cost of collection at 10 per cent. which is fair but much

above the actual cost as it is now incurred we get 180 million on both the sides of which 80 per cent. goes to the landlord and 20 per cent. to the tenant after payment of the Government revenue.

(ii) It having become a source of permanently fixed and sure income unfettered by any apprehension of loss and the promise of bigger gains with lesser efforts has always been the object of temptation on the part of the Bengal moneyed men who were ever alert not to lose any chance to acquire the same and subinfeudation was ever increasing as a result.

(iii) The Permanent Settlement Regulations, having provided no clear cut provisions for the safeguard of the interest of the tenant whatever may have been the expectations of the framers of the same, resulted in an enormous enhancement of 80 per cent. of the total rental.

(iv) The Regulations inducting in the Permanent Settlement, having conferred the proprietary right on the zamindars and placed the tenants at the sweet will of the same, created a system of overlordship in zamindars over the tenants with whom it might not have been so and far less harassing and oppressive, had the expectation of the framers of the same been fruitful but for the enervating Bengal climate that has rendered its people a most miserable race devoid of any sense of nationality.

**Q. 12.** I do advocate the abolition of the Permanent Settlement on all the grounds and in doing so though I can forego the other grounds ground No. 1 stands formidable in the way, legally, equitably and in all other considerations from a nationalistic viewpoint.

**Q. 13.** I prefer the first because it will bring the largest good to the people and more so the State will have the largest latitude to swell its coffers.

**Q. 14.** On behalf of the tenants hence the nation we can surely presume to say that the State is neither legally nor equitably nor from any other considerations bound to compensate the zamindars who with their donors have brought this state of things into existence in absence of the rightful owners and they alone are to reap the fruits of their actions which have given them many times over their investments, if any, at the cost of the people, the innocent victims in the game, but from brotherly feeling I am actuated to recommend for them a moderate khas landed property for each for the maintenance of the existing family and initial expenses for cultivation of the same for the first year and a gratuity if necessary to maintain the family until the crops in the said lands are ready for sale without consideration of the size and income of their estates. The principles of this line of work, but more drastic than mine, have been very recently enunciated by the Bengal Cabinet in matters of usufructuary mortgages, every one of whom did advance a sure sum which in 75 per cent. cases could not only fail to bring back any portion of its principal but the major portion of

the proper interest in majority of cases. I feel no hesitation in making the above recommendations for the zamindars whose acquirements were gifts, fruits of no toil, gain manifold over the investment, if any.

**Q. 15.** Does not arise.

**Q. 16.** We do not advocate State purchase but abolition *in toto* of the zamindaris on the lines suggested above which may seem to have scent leading to revolutionary ideas but not revolution itself which is not uncovertable even to bring about a change that leads to the happiness, prosperity of the nation and affluence of the national wealth and idea.

Keeping intact the whole set of honest officers of the zamindars as State servants it will be an easy task and surely will not cost the State 12 crores of rupees but a small portion of the same not exceeding 25 per cent.

**Q. 17 and 18.** Nothing to comment.

**Q. 19.** Whomsoever I have come across among the cultivating tenants and whosoever understands that the surplus income from rents that goes to the zamindars brings no gain so to say to the people or the State but meets the fancy of a handful zamindars and would become the wealth of the nation at their sweet disposal prefers Government to the zamindars notwithstanding the rigour of prompt realisation which, the majority of them declares to have more beneficial effect in the long run for a poorer people who find, in 90 per cent. cases, impossible to clear out the accumulations whatever leniency be shown to them and ultimately does it ruin the objects of favour who in these days of hard economic depression long no doubt for some lowering down in the present rental, the rate of which though somewhat bigger in the khas mahal areas being their own creations for no fault of the Government is no deterring factor when they consider the rate under the zamindars in permanently settled estates, where it is though somewhat lesser but speaks volumes where force, coercion, fear of fine, jail and forfeiture are recorded in blood in abundance.

The kharcha or the private expense in the shape of aiami, parbani, etc., ranging from one anna to eight annas in the rupee, majority verging on four annas, is seldom known in khas mahal and there if it ever has any existence as a result of resignational and playful attitude of the collecting officer (tahsildar) who pleads poverty for some sort of assistance in that shape and invariably a trifling sum generally one anna in the rupee and that very secretly behind the knowledge of the authorities who in the permanently settled estates sanction the same and turn a deaf ear to it when complained of while the khas mahal authorities readily take steps to redress these evils if they ever come to light.

Prompt action against common calamities becomes possible on account of the closer touch of the Revenue Officer who is very often the Subdivisional Officer. The prompt realisation brings more good in the long run to a poorer people whom accumulation ruins and if tempered with mercy is an heavenly bliss.

**Q. 20.** By Regulations the fixity of a low revenue being a concomitant qualification of a proprietor's right that was unassailable by any emergency whatsoever, the Bengal moneyed man were ever alert not to loose any chance of purchasing or creating a tenure which provided the intending tenure-holder and the proprietors in need with greater facility of subinfeudation and subinfeudation went on ever increasing.

The Permanent Settlement, having had wrested away the right of proprietorship in the land from the tenants, having had vested the same in zamindars whose right and title now vested in the permanent tenure-holders at whose sweet will the tenants were obliged to be placed and having had introduced a revenue system that had no reference to the produce of the land, encouraged enhancement beyond human expectation and more so when it provided that scarcity is to bring in a bigger increase. That has left the tenure holders immensely in affluence and the tenants in relentless poverty. They needed help very often as loans and the same being supplied in major cases by the so-called aristocrats who have got an immeasurable influence over the people of the province created a high social position of a god-chosen class as overlords on one side and thousand times down of the cursed people on the other, the heaven-born masters and their unpaid servants.

For the causes enumerated the so-called aristocrats have wisely been too averse to make any attempt whatsoever to improve the produce of the national wealth a highly major portion of which goes to their purse never to come down to any good to the State and the people. The nation, whose trade and commerce being beset with probability of loss, has decidedly shunned and consequently buried them, has silted up for all times to come all chances of the augmentation of the national wealth.

**Q. 21.** From what has been stated in answering previous questions we can presume and our presumption is pregnant with highest probability of a fact that a covetable state of things would come to pass by abolition of the zamindari nothing to speak of its State purchase, befitting for every one of His Majesty's honourable subjects, all amity, all peace, all happiness, overlordship gone for ever, equality to its probable extent, prevailing commerce, trade flourishing and all other inlets opening for the augmentation of national wealth.

**Q. 22 and 23.** Not attempted.

**Q. 24.** I have already made my submission that all the ancient Hindu and the Muhammadan jurists except the solitary departure of Abu Hanifa, whose statements are neither supported by any other version nor by practice, are unanimous that the first occupant of lands is the proprietor of the soil subject to the share of the State for affording protection of persons and properties, the right which is complete in all respects but not so as to reach that standard known as fee simple in England.

**Q. 25—36.** Not attempted.

**Q. 37.** I agree with the Bar Association Committee of Khulna with these exceptions that I advocate restriction to agriculturists alone which no doubt may lessen the value to some extent but the same having provided them with some outlets of help when needed at the same time has the most welcome result of saving them from the fear to be thrown into the state of paupers. Practicability of a more rigorous measure, viz., total restriction having been proved practical for about a century and a half, I am at a loss to find out how it does behove in the mouths of those advocating total restriction by legislation to say that partial restriction is impracticable.

**Q. 38.** The minimum size of an economic holding is ten bighas, i.e.,  $3\frac{1}{2}$  acres, the same being manageable for cultivation by a tenant with the help of a pair of cattle and a plough.

**Q. 39—46.** Not attempted.

**Q. 47 and 48.** As regards whether the rents of the raiyats existing at the time of the Permanent Settlement was meant to be fixed by the framers, who being of conservative turn of mind as the English of the time were who have greatest regard for existing state of things, it can by no means be taken to mean otherwise. The mention of pargana rate, the same amount of generous treatment accorded to the tenants in the Regulation itself over and above the fixity of revenue, the Regulation VIII of 1793 urging the amalgamation of all kinds of extra levy for which there was no certainty whether it was part of the rental or not, lend support and speak of a measure for detection of future extra levies. All the views are supported by Justice Trevor in the Great Rent Case (3 Weekly Reporter, Act X, page 29); the wordings of section 50, sub-clause 1 and section 6 of Bengal Tenancy Act lands strong support to the view that the existing rent should remain unaltered.

**Q. 49.** From the reading of the wordings of section 50(1) and section 6 of the Bengal Tenancy Act, we can presume that the Government was willing to give fixity of rent to some tenants and if this procedure is thought of sufficient to find out that class of tenant existing at the time of the Permanent Settlement our task becomes easier;

though it is impossible for any one to find out what was the prevailing pargana rate fixing the rent for each tenantry but by calculations we can reach to an average rate. The total rental of the province would have been 380 crores of rupees at an average rate of Re. 1-2 annas per acre; both these factors working together can give some relief to a considerable number of people who are able to prove their fixity of rent for 20 years at least before the last record-of-rights, a more recent period would make the case stronger if the landlord is unable to find out any enhancement in his rental before the last record-of-rights.

I have graver reasons to differ from the opinion given by the Bar Association Committee and strongly condemn the enhancement even up to 1/12th of the total produce, nothing to speak of 1/6th; 1/6th of the net profit is fair.

**Q. 50.** If it was the intention for all classes of tenants it was surely a mistake on the part of the Government but not so if the existing tenants at the time of the Permanent Settlement were meant, for their interest was safeguarded by section 50, sub-clause 1 and section 6 of the Bengal Tenancy Act.

**Q. 51.** The answer to question 49 clears the case. We have very little material at our disposal to say so. On the other hand we are confronted by overwhelming Regulations which become meaningless if fixity of rent were meant for all classes of tenants.

**Q. 52.** A definite portion of produce is suggested to be equitable and I agree to 1/6th of the total produce deducting the cost of cultivation on the principle advocated by me.

**Q. 53.** The rate under the Government in khas mahals is 90 per cent. competitive and that in the permanently settled estates whimsical to the equal extent; the majority of the cases can never be ascribed as lump rentals.

**Q. 54.** It cannot be called a general rule that the poorer the tenant the higher the rent. Whims, coercion and fear of forfeiture and fine and jail have played the part, the ratio of which is unascertainable.

**Q. 55.** On produce basis, taking into account the cost of cultivation and on preparation of fresh record-of-rights made by classification of lands.

**Q. 56.** Not attempted.

**Q. 57.** The principle should be fixed and when money value is put to the fixed share of the produce fixed as rent it should be revised at least once in ten years.

**Q. 58—65.** Not attempted.

**Q. 68.** In matters of the tenants of mauza Kaliganti and Shibpur in Khulna district under tauzi Nos. 171 and 172, Khulna Collectorate, of Khararia Chhota Zilla, Babu Peari Mohan Ray, only in 4 cases out of 500 the Settlement Officer allowed enhancement at the rate of 2 annas in the rupee while the Special Judge enhanced the same at 14 annas per rupee in all the cases.

**Q. 67—71.** Not attempted.

**Q. 72.** The average yield per acre of jute in the province is Rs. 73 per acre from jute and Rs. 36-6 per acre from paddy, while the cost of cultivation of jute per acre is Rs. 71 and for paddy Rs. 35-8 per acre.

**Q. 73—76.** Not attempted.

**Q. 77.** From what has been discussed so long I am of opinion that the system of land tenure in Bengal is directly and indirectly responsible for the present economic uncertain condition of the raiyats. Practically, the greatest relief to the raiyats shall come by total abolition of the Permanent Settlement whereby ample money can be had at the disposal of the State whereby agriculture, commerce and trade may be given further facilities, and medical and educational institutions their due share for improvement. If it be wanted to keep it intact income-tax be fixed on income from land so as to augment the sources of income of the province but in my opinion it is an adoption of a poorer means.

**Q. 78.** The average income of a raiyat from his holding per year is Rs. 2-8. Accepting the average income of an Indian to be that of a Bengal agriculturist, we find his income to be as follows:—

- (i) 4/5th pie per head from holdings;
- (ii) 1 anna 3 pie per head from labours in the field;
- (iii) 2 1/5 pies per head from other sources, or in other words 4½ per cent. of the agriculturists maintain themselves from the holdings;
- (iv) 83 per cent. from labour in the field.
- (v) 12½ per cent. from other sources.

**Q. 79—82.** Not attempted.

**Q. 83.** We differ from the opinion given by the Bar Association Committee at Khulna in the following:—

The effect of the facility of transfer given by the amendment of the Bengal Tenancy Act of 1938, on the tenants beset with the apprehension of the raiyat being driven into the state of a pauper may be avoided by restricting transfer to agriculturists.

## Reply by the Malda Bar Association.

**Q. 1.** It is right and proper that proprietary right in land should remain with one who lays out labour and money for its cultivation and improvement. This wholesome principle has not been taken into account by the authors of the Permanent Settlement creating a class of middlemen between the Government and the raiyats. It appears that zamindars did not always faithfully discharge the duties expected from them in as much as they did not always extend to their subordinate tenants the same generous treatment which they were to receive from Government by the Permanent Settlement. The old race of landlords who were *bap ma* of their tenants is almost extinct. Lured by modern civilisation their successors are not much mindful of their tenants who have to shift for themselves in hours of trials and tribulations. The recent legislation in the Bengal Tenancy Amendment Act had the soothing effect to some extent on the unhappy life of Bengal tenants, without inflicting serious blow to the landlords regard being had to the illegal and excessive exaction resorted to by them or their employees. In spite of its demerits the Permanent Settlement has taken root in the mind of the people who are so much used to it that any violent and sudden departure from it will injuriously affect the country and its people.

**Q. 6.** The large increase in the area brought under cultivation since the Permanent Settlement is mainly due to increase of population owing to influx of people from other provinces and enterprise of the tenant. The landlords' contribution towards furtherance of the improvement is quite negligible.

**Q. 7.** The abnormal increase in rent roll of the permanently settled area since the Permanent Settlement may be ascribed mainly to inequitable enhancement of rent and increase in cultivation and reclamation of waste lands by the efforts of the tenants.

**Q. 8.** The zamindars' failure to secure to their tenants generous treatment expected of them may be traced to their illegal exactions and inequitable enhancement of rent of tenants.

**Q. 9.** It is expected of the zamindars that they should spend a greater portion of the year among their tenants to be in touch with them and sympathising with them in their weal and woe. Besides tenants are to some extent benefited by the expenditure for necessaries or luxuries incurred by zamindars at home amidst their tenants. But they are deprived of such benefit if the expenditure is made elsewhere by the absentee landlords. Out of sight is out of mind and lack of mutual cordiality is the consequence.

**Q. 10.** The Permanent Settlement was no doubt in the interest of the country economically and for the greatest good of the greatest

number. But as the landlords' failure to carry out faithfully their part of the contract the result has been to the advantage of the landlords at the expense of the tenants. If the landlords listen to the call "back to the country", live in the midst of their tenants sedulously and synthetically looking after their needs and welfare, a good result will surely be achieved.

**Q. 11.** The grounds enumerated in the question assailing the Permanent Settlement are no doubt true to a considerable extent, but in spite of their faults and limitations the landlord class cannot be dispensed with regard being had to their useful function of standing between the Government and tenants shielding the latter in times of trying difficulties.

**Q. 12.** The Permanent Settlement must subsist for the benefit of landlords and tenants alike provided the landlords mend their ways to suit the present economic distress, contemplating which the recent Tenancy Amendment Act came into force.

**Q. 19.** The raiyats would not to my mind prefer to come under Government and pay rent to it direct. If the landlords try to approach the ideal expected of them by the Permanent Settlement the tenants under them will not envy the khas mahal tenants.

**Q. 29.** In some parts of Bengal the number of bargadars, adhidars and other cultivating on a share of the produce is on the increase owing to poverty as they cannot afford to have a land of their own or sufficient quantity of land.

**Q. 34.** The effect of giving occupancy right to bargadars would be disastrous to them as in that case no one will be willing to part with their lands on barga system and the bargadars will be thrown out of employment.

**Q. 35.** The general practice is that after reaping the produce cost of reaping is deducted therefrom in kind and then the balance is equally divided between the bargadar and the owner of the land. This seems fair and no legislation for fixing maximum seems necessary.

**Q. 86.** The operation of the Debt Settlement Board has been weighed in the balance and found wanting. The constitution of the Board is made of such persons as have no tact or experience in compromising cases and the result in generality of cases is that neither party is benefited in the long run. To make the Board really useful it should be presided over by a Judicial Officer or such cases should be tried in the Civil Courts. The Board seems to be elated with its power under section 34 of staying pending legal proceedings in all courts from the High Court downwards. The legislature intended to benefit the agriculturist but in actual operation the agriculturists have been put to great difficulties as all the sources of getting loan from anywhere are practically stopped.

## Memorandum by the Midnapore Bar Association.

To deal with the questions separately seems to me impracticable and inconvenient. For, one will overlap the other, and repetition will occur now and then. So, I propose to answer them jointly, keeping in view the intentions of the framers of these questions.

The answer to the questions depends chiefly upon the answer to the questions whether the present zamindari system is a boon to the country and whether it has any historical data behind its back, or whether its abolition is for the welfare of the general mass and whether it is supported by the customary law of the country.

In order to find out a satisfactory solution of this, we are to look back to the pages of history. Broadly speaking, there are three periods in the annals of our country, viz., the Hindu, the Muhammadan and the British. During the Hindu period, property in land belonged to all the members of the community; or in other words, earth was the common property, just as air or water. Just like the Roman jurists the Indian sages believed property to be in the first occupation or occupation (of *res nullius*). Thus we find in Manu (Ch. IX, v. 44) “স্থাপত্তেন্দস্ত কেদাবমাহু স্থানাবতো মৃগম্।” i.e., a land belongs to him who cuts and clears away the jungle on it exactly on the principle that a game is his who has first pierced it.

But Manu also recognises that the king is entitled to a certain share of the produce of the land in the occupation of the subjects. This would indicate that neither the subject nor the sovereign is the absolute or exclusive owner of the soil, but something less. All authorities from the time of the Rigveda down to the Dayabhaga agree that the sovereign is not the owner of the soil. The king was entitled to a certain share of the produce, not because he was the proprietor, but because a share was payable to him for the kind protection given to life, property and liberty. And these kings were numerous, occupying different parts of the country.

Next for the purpose of collecting these shares of the sovereign and for internal administration, peace and justice, the whole country was divided into different grades of villages with a headman for each; e.g., lord of a single village (গ্রামাধিপতি) lord of ten villages (দশগ্রামাধিপতি), lord of hundred villages (শতগ্রামাধিপতি), and lord of 1,000 villages (সহস্রগ্রামাধিপতি). This headman was selected by the people and appointed by the king but removable at his pleasure. In some cases, he was allowed an emolument, e.g., nankar lands, while in others he was allowed a certain portion of the king's share. He,

in his turn, maintained peace in the country and collected the king's share of the produce from the persons, who were generally known as the khudkasht raiyats. These persons cultivated their respective lands either themselves or by members of their families or by hired labourers, and they had a permanent, hereditary and transferable interest in lands. They are now, to a some extent, represented by the present mourasi mokarari holders.

In course of time, due to pressure of necessity, another class of temporary tenants, namely, the paikasht raiyats arose. They were the inhabitants of the nearest villages and were introduced by the khudkasht raiyats themselves. When, due to superior skill and better management, a khudkasht raiyat acquired more lands which he could not manage to cultivate, or when a share fell to (1) a female who could not do the necessary things with her own hands, or (2) to a person who due to ease-loving nature would not perform the duties of cultivation, or (3) to a person of higher caste who thought it beneath his dignity to do the manual labour, these persons were brought in; and they, in their turn, would undertake to cultivate the lands and pay up the Government dues and give a share to their lessors. This additional share represented the ancient form of rent in India and in the process of evolution, these paikasht raiyats were given a status somewhat similar to that of the occupancy raiyats of to-day. Thus sprang up a considerable number of middlemen. This is the ancient relics of the present tenure-holders, which we now find in abundance. And here the Hindu chapter is closed.

Then came in the Mussalmans with a different notion. Gradually they conquered the country and settled in the land. But in practice, they adopted the Hindu tradition and custom and went on as usual with a slight variation here and there. Here, for the first time, we find a reference of the term, "zamindar". It means "possessor of lands by virtue of an office under the Crown, or by virtue of functioning some of the duties, attributed to the sovereign." These zamindars originated probably from the following sources:—

(1) Headmen.

(2) Ancient rajas who have been reduced to the position of subjects but retained the internal administration of their territories. Descent through primogeniture goes to prove this.

(3) Freebooters who came to terms with the Government and paid a tribute for the tracts which were under their control.

(4) Military chiefs who were paid by assignments of the royal revenue of the specified tracts.

(5) Farmers of revenue: Sometimes, revenues from specified tracts were assigned for the support of civil officers. Some of these officers, especially the ministers, household officers, and the personal staff of

the sovereign could not reside in the tracts and collect the revenue. This compelled them to make an arrangement, generally known as "farming" under which the farmers were given the right to collect the revenue and to pay a specified sum. Afterwards in some cases this system of farming was also adopted by the sovereign in respect of collections of Government revenue.

The incidents of a zamindar were these

- (1) He was liable to be dismissed.
- (2) His interest was inalienable without the sanction of the Government.
- (3) Though generally his eldest son succeeded to his position yet a sanad from the sovereign authority was required for confirmation.
- (4) There was a chain of officials to supervise his duties.
- (5) He was allowed a very small portion of the share of the produce as his remuneration.
- (6) He was to perform many other duties which were not necessary adjunct of a landed proprietor.

From the above, it would seem to indicate that zamindari was an office, and not property in land. But in course of time as the central power began to decline, these zamindars grew in power and usurped some of the functions of the sovereign and acquired a local influence.

At this stage the Britishers made their appearances and slowly brought the whole country under subjugation. On a mistaken idea that these zamindars were the actual proprietors of the soil, they at first settled the land revenue with them temporarily for a term and afterwards made it permanent in 1793. In doing so, the Government had two objects in view: (1) the security of the revenue, and (2) the improvement of the land. A view was taken that if the revenue was fixed in perpetuity, the zamindar would have the greatest inclination to improve his asset in the knowledge that anything he could have made out of his estate over and above the land revenue would be his private property without any further imposition. It was further expected that the zamindar would be generous towards the tenants.

Then the question is "Has this expectation been fulfilled?" The answer would be an emphatic "No".

The famous note on the Land Revenue policy of the India Government issued in 1902, in reply to certain criticisms of the late Mr. R. C. Dutt says: "The Government of India know of no ground whatever for the contention that Bengal has been saved from famine by the permanent settlement, a contention which appears to them to be disproved by history: and they are not therefore disposed to attach much value to predictions as to the benefits that might have ensued had a similar

settlement been extended elsewhere. As regards the condition of cultivation in Bengal, there is still less ground for the contention that their position owing to the Permanent Settlement has been converted into one of exceptional comfort and prosperity. It is precisely because this was not the case, and so far from being generously treated by the zamindars the Bengal cultivator was rack-rented, impoverished and oppressed, that the Government of India felt compelled to intervene on his behalf".

Mr. J. S. Mill in his "Principles of Political Economy" wrote, "The measure proved a total failure as to the main effects which its well meaning promoters expected from it. They flattered themselves that they had created throughout the Bengal provinces English landlords, and it proved that they had only created Irish ones. They did nothing for the improvement of their estate, but everything for their own ruin. In one generation the ancient zamindars had ceased to exist, and other families, mostly the descendants of Calcutta money-lenders, now occupy their place, and live as useless drones upon the soil which has been given up to them. Whatever the Government has sacrificed of its pecuniary claims for the creation of such a class has at the best been wasted."

Now, on a closer examination of all these facts, it necessarily comes to this:—The zamindars have no right to exist either in law or in equity. Because, no custom of the country supports them. Theirs was an office. The office being abolished, its necessary corollary must also be abolished. Just as the son of a secretary of the present Government cannot claim the emoluments which his father enjoyed as such, so the heirs of these zamindars cannot equitably stick to the soil of the country without being raised to the position of their predecessors. Moreover, the contract was entered into on a mistaken notion that the zamindars were the actual proprietors of the land. But we have seen that the tenantry represents, to some extent, the actual proprietorship in land. So, if any benefit was to be bestowed upon anybody, it ought to have been bestowed upon the tenants. The jurists of every country agree that if anything is done by mistake, it is voidable at the instance of either, when the mistake becomes known. So the question of "pledge" goes away.

The same argument is applicable with greater force in the case of temporary settlement. Further, it requires not only expense and trouble, but dislocation of all business. And it tends to check the improvement of cultivation.

The next question that necessarily arises is "will the tenure-holders be abolished, or will they be allowed to remain in their present position and proportion?" It is a vexed question of law and fact. We have already seen that these tenure-holders were in the process of growing

from the time of the Hindu kings and they grew and took their complete shapes during the subsequent periods. They are not an arbitrary creation. They formed as a matter of course. To do away with them is to go against the laws of nature. Up till now, no country has been able to disregard its customary laws. Even the most revolutionary Moscow Government has been compelled to recognise its customs at this distant date. So, we find that the tenure-holders have a legal origin and they must remain as they are. Of course, there is no denying the fact that they would not have assumed this proportion, had not there been the Permanent Settlement. But there is no escape from the situation.

In this connection, another thing that crops up in our mind is whether the zamindars are entitled to any sort of compensation for the abolition of their systems. Legally they cannot claim any compensation; for it is their own misdeeds that have made them what they are. But the Permanent Settlement has induced others to invest money in it. So equitably a nominal compensation, say five times the net profits, may be awarded. Barring the tenure-holders their net profits would amount approximately to Rs. 6 crores a year. Hence, on the basis of this, it will cost thirty crores of rupees at the utmost; and these zamindaries may conveniently be purchased by issuing bonds, carrying an interest of 2 per cent. per annum with power to redeem them by instalments of 20 years.

And this being the state of affairs, our next thought would be, "What sort of settlement is to be effected with the tenure-holders and the raiyats?" If any settlement is to be concluded, it must be made permanent and the rent which a tenant will be required to pay must be settled with reference to the economic condition of the country; otherwise, there will be no inducement on their part to improve the lands. But for the welfare of the cultivating raiyats and the country, there must be a limit imposed upon them. No tenure-holder, under any circumstances, should be allowed to acquire property yielding an income of more than Rs. 2,500 a year and a cultivating raiyat should not acquire more than 100 acres of arable lands. Or else the same self-condemned system will grow in some form or other and all the consequent evils will follow in its train.

As to the main effects of this arrangement, it can be safely said that it will be beneficial to the people at large and conducive to the healthy development of the society. The tenants will prosper and the Government will ultimately be able to take up many works of public utility. Our landed magnates with a vast wealth thus acquired will find out new avocations of life and large scale industries will naturally grow and flourish and in consequence the question of unemployment will be settled once for all.

## Reply by the Mymensingh Bar Association.

The main principles followed in the preparation of our answers are :—

1. The Permanent Settlement has been beneficial both to the landlords and the tenants. At the time of the Permanent Settlement, obligations of the State to the tenants were first juridically recognised and the landlords were assured of unassailable security as to their rights.
2. Zamindars were proprietors even from before the Permanent Settlement subject to their revenue obligations to the State. Before the Permanent Settlement it is doubtful if the tenants had any secure right in land.
3. Landlords discharged the duties entrusted on them by the Permanent Settlement fairly well and they were given right to choose their tenants.
4. The breach of the solemn pledge of the Permanent Settlement will create a sense of insecurity in the minds of the people without any corresponding advantage to the tenants.
5. The Permanent Settlement has stabilised rents and revenue of the province.
6. Expropriation, even by compensation, will be injurious and subversive of social relations. Moreover State ownership will be resented even by tenants.
7. Subinfeudation is not necessarily bad if the maximum and minimum limits of alteration of rent are fixed by law.
8. Occupancy rights should not be extended unless there is contract to the effect or unless the tenancy is backed by some legal consideration in favour of the landlord. Bargadars or labour partners in cultivation should have no occupancy rights.
9. No law against transfer of lands to non-agriculturists should be passed, as it would create fresh difficulties which the State will not be able to meet in future.
10. The Permanent Settlement never implied that landlords would not be able to enhance rents. So enhancements are permissible subject to a maximum limit. In cases of excessive rate of rent, reduction of rent is desirable.
11. Land system has nothing to do with the present miserable economic conditions of the tenants. It is due to over-population and thoughtlessness in the increase of the peasant families. And it is also due to other kinds of improvidence.

12. But the economic conditions can, to some extent, be improved by organising cottage industries, improved credit facilities and industrialisation and by introducing improved methods of agriculture and marketing of agricultural products.

13. The credit of the agricultural population is hopelessly at the lowest ebb and it can only be revived by organising State-directed Banks with State guarantee to depositors and State lien on the produce of the agricultural debtors. Private moneylending cannot revive in view of the sense of insecurity created by the agricultural debt conciliation Act and the tendency of the legislators to wipe out all sorts of contractual obligations by passing moratorium laws.

14. There should be less expensive procedure of realising rent dues.

**Q. 1.** The duties and obligations referred to mostly are of two kinds—one to the Government and the other to the tenants. Obligation towards the Government was defined and exhaustive inasmuch as the Government was to get fixed revenue and zamindars were to lose their estates by sale in case of default without any excuse. On the other hand, duties and obligations towards tenants are more or less of an undefined and moral nature, and necessarily not exhaustive. Permanent Settlement did not take away any right from the tenants. Before the Permanent Settlement also, tenants used to pay their rents to zamindars, i.e., persons who were entrusted by the sovereign authority to realise rents subject to the payment of land revenue to that authority although this period of trust was more or less temporary—being fixed for certain years. But tenants, in any case, had no better right, if not worse. For, in the nature of things, tenants could not be invested with better rights when the sovereign authority was more prone to have maximum revenue than to protect tenants, and the zamindar who could best fleece the tenant could give the best account of himself. Moreover, before the Permanent Settlement, i.e., as far back as the Moghul period, there is no evidence of tenants having any secure right in land except that of istimardar and khudkasht raiyats. And the rights of these latter classes were also more or less based on custom rather than on law.

**Q. 2.** Yes, the Permanent Settlement conveyed to the zamindar the power to choose his tenants and to regulate the usage of the land in the economic interest of the province. Subject to the obligation and pledges of the sovereign authority, to protect raiyats and dependent talukdars. The very fact that estates are liable to be sold for arrears of revenue and the obligation cast on the zamindars to "exert themselves in the cultivation of their lands under the certainty that they will enjoy exclusively the fruits of their own good management and industry" indicate that zamindars were given exclusive right over their

estates including choice of tenants for proper and economic cultivation and that if the zamindars fail to do so, their estates will be sold to make room for more worthy ones.

Further, section 52 of Regulation VIII of 1793, i.e., The Decennial Settlement Regulation, clearly laid down that "The zamindar or other actual proprietor of land is to let the remaining lands of his zamindari or estate (remaining means those not already let to talukdars and istimrardar as laid down in sections 49 and 51 of the Regulation) under the prescribed restrictions in whatever manner he may think proper". Restrictions of course mean prohibitions as to new abwabs, written engagements and amilnamas, etc. But the zamindars were required by the Permanent Settlement Regulation to deal with their tenants with moderation.

**Q. 3.** It is the landlords who took the settlement of large areas of uncultivated and jungly lands. At first they were not profitable, as is indicated by large number of sales during Decennial Settlement, and zamindars secured people to get these lands cultivated primarily with a view to balance their revenue demands and earn profit. By remission of rents and helping tenants to build houses and clearing jungles, the landlords have helped economic improvement. In this way the action of landlords has led to economic progress. It cannot be said that they failed to perform functions expected of them at the time of the Permanent Settlement.

In Article VI of the Permanent Settlement Regulation we find what was expected of the landlords. They are (1) that they would improve their lands by bringing them under cultivation, and that (2) they would conduct themselves with good faith and moderation towards their dependent talukdars and raiyats. These they have discharged. Not to bring lands under cultivation was to invite the risk of collapse and sale of estates. It is only human and instinctive for man to pursue this economic course. Whenever they have failed to do so, it was inevitable and so not intentional. As to their behaviour with raiyats and talukdars, they were far better than their predecessors in pre-Permanent Settlement days. Of course, there may have been instances of their ill-treatment of tenants. Even then, it was not unexpected. Had it been unexpected, the paramount power would not have reserved to themselves the right to protect raiyats and talukdars when occasion would demand. Thus their lapses from what was expected of them were more or less in the nature of exceptions to the rule.

**Q. 4.** Before the Permanent Settlement, zamindars were no doubt collectors of revenue in the sense that it was they only who contributed to the public exchequer by way of direct land tax, but nevertheless they were, for all purposes, proprietors as well. The very mention of

the word "proprietor" in the Permanent Settlement Regulation itself shows that zamindars were proprietors. Before the Permanent Settlement Regulation, no right as to land was well defined. The State used to settle with zamindars who were left undisturbed if they paid their quota to the public exchequer. And ever since the Moghul time zamindaris passed on successively from one generation to the other by way of inheritance, subject to the demands of the State. Even if zamindars defaulted, their zamindaris were rarely confiscated; the State dues were realized by imprisonment of zamindars and by temporary leases to be terminated in favour of the zamindars after dues were satisfied. Similarly, tenants had also no rights in land; they were ejectable merely by the will of the landlord. Only at the time of the quinquennial settlement, which proved a miserable failure, the above rule was deviated from. At the time of the Permanent Settlement the rights of the zamindars were only placed on a firmer basis and the system of sales was introduced as a method of enforcing State demands. And it is only at the time of the Decennial Settlement and the Permanent Settlement that the obligation of the State towards tenants was first recognised. Moreover the provision of a malikana in favour of proprietors of temporary and permanently settled areas if they are let out in farmer held in khas corroborate that zamindars were proprietors (*vide* section 44, Regulation VIII of 1793). The Decennial Settlement clearly recognizes that settlement be made with the actual proprietors. The existence of khamar, nisjote and chakran since before the Decennial Settlement also points to the fact that zamindars and independent talukdars were proprietors.

**Q. 5.** The annulment of the Permanent Settlement would certainly be a breach of a solemn pledge given by the East India Company—"that no demand will ever be made upon them, or their heirs or successors, by the present or any future Government, for an augmentation of the public assessment in consequence of the improvement of their respective estates." And Article III of the Regulation clearly fixes the jama for ever. The fact that tenants were not parties does not minimize the sanctity of the pledge which is the very foundation of real property rights in this province and on which foundation the basic rights of the tenants also depend. Tenures at fixed rates, raiyats at fixed rents and at present suspension of the provisions of enhancement of rent would not have been possible without some Permanent Settlement at the base.

The financial resources of the country have not been crippled by this measure. By sub-section (2) of Article VII of the Regulation Government has reserved the right to internal duties. And by ensuring security of rights to zamindars and tenants this has enabled to raise the taxable capacity of the people otherwise.

**Q. 6.** The answer to this question is partly given in our answer to question 3. Of course, all the three factors mentioned in the question are responsible for the increase in the area of cultivation. But it is very difficult to ascertain the extent of the contribution of each factor to the increase in cultivation. Nevertheless the expectation has been realised to a great extent.

**Q. 7.** All the three factors mentioned in this question are responsible for the increased valuation. Increase in cultivation and reclamation of waste lands by the efforts of the tenants with the help of the zamindars has mainly contributed to the increase in rents. There has no doubt, been enhancement of rents existing at the time of the Permanent Settlement but enhancement of rent has not raised the valuation to such an extent.

**Q. 8.** Zamindars for the most part, have no doubt conducted themselves moderately. This will be evident from the fact that at the earlier period of the nineteenth century zamindars, in order to save their estates from sales, were compelled to create permanent tenures and State, also, appreciating their difficulty passed Regulation VIII of 1819 to give them certain facilities to realise their rents from tenureholders. If they transgressed the limits of moderation, all these protective measures and creation of permanent tenures in limitation of their rights would not have been necessary. Of course, as other human beings, zamindars in pursuit of their self-interest, have transgressed these limits and the Government experiencing these transgressions have enacted rent laws to safeguard the interests of tenants. A study of the rents law would show that great care has been made to secure to the tenants the right of occupancy so that they may not be ejected, and that sufficient safeguards have been made as to realisation and enhancement of rent. The successive amendments of the rent laws indicate the way in which landlords had failed. But these failures were only to be expected in any class of human beings.

**Q. 9.** Except "extension of cultivation" neither duty was expressly entrusted with the zamindars by the Permanent Settlement. Nevertheless zamindars were impliedly required to make improvements of their estates as successive tenancy legislations would show. Zamindars have failed to make improvements of their estates by proper economic efforts in the sense that they have not done what they might do in addition to extension of cultivation by inducting tenants. This was more due to absence of enlightened idea about utilising the possibilities of landed properties and also due to the difficulties of consolidating land by purchasing from tenants. Absentism and lack of close touch have very little to do with this. At the earlier period of the Permanent Settlement there was no enlightened idea and

since the end of the nineteenth century the lands were so much distributed amongst tenants that any independent enterprise by landlords was simply impossible.

**Q. 10.** Yes, the Permanent Settlement has contributed to the greatest good of the greatest number. It has made possible the stabilisation of rents for the tenants. Revenue system of the province has been steady and sure. Tenants had nothing to lose.

**Q. 11.** The criticism is not at all justified. The income that the landlords appropriate will not be more than 25 per cent. of the entire income from land, if by income we mean the rental, after deducting the revenue and cess charges and collection and establishment expenses. Through collection and establishment a large number of people, who would otherwise remain unemployed, get employment. But if by income we mean the produce of land, zamindar appropriates only a small fraction.

No doubt, it has led to subinfeudation, as any other mode of secure property rights would have. Subinfeudation is not necessarily an evil if the rental of the lowest substratum is kept within proper limits. And in this province the rental has never been prohibitive in comparison with the rents of other places where there is no Permanent Settlement. Similarly enhancement of raiyati rents has not been inordinate. Nor the system of overlordships as imagined, is so widespread and oppressive.

Again the evils hinted in these criticisms can be minimised by proper safeguarding legislations without impairing the Permanent Settlement.

**Q. 12.** No, we do not advocate the abolition of the Permanent Settlement.

**Q. 15.** Certainly, they should be redeemable at a stated period, i.e., not exceeding twenty years, at the will of the holders. Rate of interest should be as indicated above.

**Q. 16.** It will have disastrous effect. People will lose all faith in the state and security of contracts. Contractual obligations will be shunned, property rights will crumble. People will have no interest in any sort of right they may hold. Nobody will feel safe in the land with their assets for investment. Capital will be shy and flow out of the country.

**Q. 17.** If zamindari rights are purchased by the State, there is no sense in not purchasing the rights of the tenureholders. But in any view we do not support such expropriation even by compensation.

**Q. 18.** If tenants are brought directly under the State a set of trained and expensive bureaucracy will have to be set up for realising rents. The casts will necessarily be great and it is impossible for us to give an estimate of costs. But this is certain that the profit to the public exchequer will be much less than the profits incurred by private landholders as the management will be devoid of personal interest and as the Government management will always be more expensive. Moreover profits will fall far short of the requirements of interest and sinking fund charges for the compensation debentures.

**Q. 19.** No, raiyats will not like to come under an impersonal Government management which shall never tolerate large arrears nor shall it ever tolerate barred dues to stand on. Moreover under private zamindars raiyats get many concessions by way of remissions which no Government officer can allow. This is a great disadvantage of khas mahal tenants, while they have no corresponding advantage.

**Q. 20.** Of course, in the earlier period of the inauguration of the Permanent Settlement, zamindars had to create tenures to divide their risk, as in the beginning in spite of the Permanent Settlement zamindaris had been run at loss. But afterwards subinfeudations were rare. By subinfeudation tenants have not been affected the least for the rate of rent in tenures does not exceed the rate in zamindaris. Moreover the less resourceful tenureholders have enhanced rent much less than the zamindars who are comparatively more resourceful.

**Q. 21.** Same answer as to question 16. Only the tenureholders who are poorer will be compelled to glut on raiyats rights making congestion on land.

**Q. 22.** If zamindaris and tenures are purchased by State, homesteads and khas lands of the proprietors and tenureholder should be left to their possession on a proportionate basis of rental to be paid to the State or they may be kept rent free according to the choice of the zamindars if they forego corresponding compensation. At the time of awarding compensation, valuation of these lands should be computed on rental basis. Lands under direct possession and cultivation through barga or leases should be considered as proprietors' khas lands. And homesteads can be found out easily.

**Q. 23.** Certainly, before tenancy legislations by the British Government no occupancy right or any right had ever existed. All tenants were tenants-at-will. Of course, khudkasht raiyats had some customary right. But even their rights were definitely and legally recognised first by British legislation (*vide* section 60 of Regulation VIII of 1793).

**Q. 24.** *Vide* answer to question 4. Cultivating raiyats were not proprietor of the soil.

**Q. 25.** Occupancy rights should not be extended so thoughtlessly. If, by contract and in lieu of premium consideration lands are settled with an intention of creating tenancy there is no harm in extending occupancy rights subject to certain safeguards for superior interests and specially subject to the right of annulling those rights in case of rent sales. So, extension of occupancy right on this principle to more than one grades of tenant can have no objection.

To confine occupancy right to cultivating tenant also, can have no objection. But the tenants between the proprietor or tenureholder and the cultivating tenant should not be deprived of the valued right they are enjoying now.

**Q. 26.** If the principle I have enumerated in my answer to question 25, is accepted, there will be no occasion to consider this. But there is an implication in the premise of this question, i.e., "If you consider that the right of occupancy in all cases should vest in the actual cultivator of the soil," which substantially differs from the last line of question 25 "tenant actually cultivating the soil". Our answer to question 25 is on the assumption of the word "tenant" as understood in the Bengal Tenancy Act and not otherwise. In no case, we support the granting of occupancy right on the mere test of "actual cultivation" unless the person so meant is admitted as a tenant by his superior landlord and unless he stands the test of the principle enumerated in our answer to question 25.

**Q. 27.** Certainly. The Permanent Settlement Regulation in its Article VII declared that the ruling power would "enact regulations .....for the protection and welfare of the dependant talukdars, raiyats and other cultivators of the soil." This includes "non-agriculturists" in a sense. Occupancy rights when they are given, should be given to all irrespective of any invidious distinction as to agriculturists or non-agriculturists which may occasion many difficulties in a country like ours, where sources of investment are very much limited. Moreover look at sections 49 and 51 of Regulation VIII of 1793 where istemardars and dependant talukdars who are non-agriculturists are specifically protected. But this should mean that occupancy rights should be given only with respect to agricultural lands.

**Q. 28.** We think, the rights, whatever be their inceptions, should not be interfered with if they are diverted to other uses. Moreover, this involves a question of principle. State should not levy additional tax, for these converted holdings already pay other kinds of tax, viz., municipal tax, income-tax, etc. And businesses or manufacturers

also pay sundry other kinds of taxes. So, they should not be overburdened with other kinds of land tax. Tenants of non-agricultural lands do require no less protection than those of agricultural lands for in this country they are mainly owners of residential houses. Moreover laws should be passed to protect tenants of non-agricultural lands against whimsical ejectment by unscrupulous landlords.

**Q. 29.** They may be on the increase but not so perceptibly. Even if there is some increase, it is not out of proportion, to the increase in area under cultivation.

**Q. 30.** The increase in the number of bargadars may be somewhat due to cause (iii) but that is also negligible. For during the depression, cultivators were not at all put to hard pressure for their liabilities. Creditors and loan companies have themselves gone into liquidation as suits against raiyats to enforce claims were unremunerative. Their lands falling much into value were not worth to be proceeded against. So sale on the score of meeting financial liabilities was rare although sale for their domestic needs was to some extent perceptible as they have lost all credit in the money market.

Cause (i) is meaningless, as bargadars had never any right.

Cause (ii) might also cause some increase in the number of bargadars but the transfer to non-agriculturists has not also been much. Depression set in soon after the passing of the 1929 Bengal Tenancy Act amendment. So non-agriculturists also, were not in a position to purchase by paying premiums to landlords. Creditors also could not have the debts in their favour satisfied in lieu of land, as most of them were not in a position to pay landlord's transfer fee from their pockets.

**Q. 31.** A bargadar normally cultivates five acres of land including his raiyati lands. Yes, majority of bargadars are also raiyats and under-raiyats otherwise.

**Q. 32.** It is preposterous to think that bargadars' mere labour partners for cultivation should get any right whatsoever, what to speak of occupancy right. They need no protection. They are the happiest lot without any corresponding obligation. Honesty and proper conduct are the surest guarantee to bargadars.

**Q. 33.** Certainly, it is sound. It is far better than capitalistic production with agricultural coolies or serfs as labourers.

**Q. 34.** If bargadars are given occupancy rights, there will be serious agrarian revolution in the land. Khas lands will never be let out for cultivation, forest growing will be more profitable. As a result the large number of people will be thrown out of employment ultimately resulting in strife and depopulation. And country will be economically poorer for loss of effective cultivation.

**Q. 35.** No legislation on this score is necessary. Almost throughout the land half the produce has been considered as a fair proportion.

**Q. 36.** The wages of agricultural labourers will not exceed 4 annas a day since the depression. But they find employment only in the agricultural season. The condition of the bargadars and under-raiyats, are certainly better than the day labourers.

**Q. 37.** The Act of 1929 did not lead to a considerable extent the passing of raiyati lands to non-agriculturists as there were the check of transfer fee and pre-emption by landlords. But the present amendment of 1938 has afforded greater facilities for the passing of holdings to non-agricultural people. But no legislation should be ventured on this score, carelessly as it may discourage agricultural enterprises by more resourceful men with greater intellect and capacity. Moreover definition of non-agriculturist will create lot of difficulties. Such a legislation would cause fall in the price of land ultimately resulting in concentration of land on few so-called agriculturists.

**Q. 38.** 3 acres should be the minimum size of an economic holding.

**Q. 39.** Yes. Many holdings are uneconomic. And all the reasons suggested in the question are true. Moreover the lands of almost all the raiyati holdings are scattered.

**Q. 40.** Consolidation is no doubt desirable. But the problem is stifling owing to the various rights to which a particular plot of land is subject in the process of subinfeudation. But this may be done by a suitable land consolidating legislation which shall provide for consolidation by exchange or otherwise through contract or judicial proceeding in which all persons interested must join and which shall provide for the security of land revenue also. Besides this, there should be arrangement for revising land records periodically.

**Q. 41.** Yes, we would; but it should be left to future legislation.

**Q. 42.** This is a vexed question. Large scale agriculture will necessarily require accumulation of large areas in a particular land. No such limit should be set as agriculture itself has a natural limit being subject to the economic law of diminishing return.

**Q. 43 & 44.** Not necessarily. A comprehensive law for consolidation will meet all objections.

**Q. 45.** Section 93 of the Bengal Tenancy Act is sufficient.

**Q. 46.** Certainly landlords were expected to increase income by enhancing rent as much as by extending cultivation. Moreover the rate of rent at the time of the Permanent Settlement was in a state of chaos and no reliable land records were prepared at that time. Land revenues were settled on exaggerated estimate of rent, leading to many

failures. State of chaos was handed over from the time of the quinquennial settlement. So it would have been sure injustice to the landlords if they were debarred from enhancing rents. Except in the case of istemrardars, dependant talukdars, etc., want of specific provision in the Permanent Settlement regulations and in the Decennial Settlement Regulation clearly indicates that the rents of other classes of tenants were variable, though the earlier Regulations do not fail to provide specifically for other kinds of safeguards as to abwabs, etc., and rights of khudkasht raiyats.

**Q. 47.** These were left perfectly to the discretion of the zamindars. Permanence or fixity of rent was never enjoined. The very terms "kaim mokarari" miras as adjectives to the term "jama" distinguish them from simple jama which has been enhanceable always. And these terms are in use from pre-Permanent Settlement days. And the Permanent Settlement did not specifically vary the customary right of zamindars to enhance rent. Decennial Settlement made specific provisions that rents of istemrardars and certain talukdars are not enhanceable (*vide* sections 49 and 51, Regulation VIII of 1793) but no such provision was made in favour of other tenants. If the framers of those Regulations intended to prohibit enhancement they might do so along with the provision for the consolidation of abwabs into rent. Moreover section 52 of Regulation VIII of 1793 thoroughly empowers a zamindar to let "in whatever manner he may think proper" subject to the restrictions in favour of talukdars and istemrardars. Only specific engagement was enjoyed.

Further, *vide* section 2, Regulation V of 1812, which was passed not very much after the Permanent Settlement regulation. In that Regulation also conditions for enhancement of rent were provided subject to a notice to the tenant, those provisions having now become obsolete owing to the operation of the Bengal Tenancy Act at present. Of course since the passing of this Regulation landlords obtained the right of creating new tenures and tenancies at fixed rates in limitation of their rights of enhancement. The trend of all the earlier Regulations was only to provide for penalising landlords if they transgressed their contractual engagements with their tenureholders or raiyats and not to prohibit enhancement of rent. The longstanding tradition in India that cultivators were to pay a share of the produce to the superior landlord or State indicates that rents were variable.

**Q. 48.** Answer to this is unnecessary in view of our answer to question 47. But with respect to clause (d) to this question, it can be said that the provisions mentioned of in the Bengal Tenancy Act in sections 6 and 50(1) are only afterthought. They have been done at a time when zamindars had already established themselves above the risk level. By such provisions tenureholders and raiyats were only given by the state to enjoy same fruits of the Permanent

Settlement. But this cannot necessarily lead us to infer that the Permanent Settlement meant rents to be fixed in perpetuity.

**Q. 49.** It is impracticable. Reduction can be allowed on equitable grounds as provided in law. To reduce rents to the level prevailing at the time of the Permanent Settlement is sheer injustice to landlords who have reached the present stage after undergoing long-drawn series of risks. Moreover original landlords for the most part do not exist. The present incumbents are mostly purchasers having invested their saving otherwise earned on land, on the calculation of the present rental assets and the legal security that the existing laws afforded. Moreover this is impracticable for want of necessary materials as indicated in the question. Both the landlords and tenants have changed hands since the time of the Permanent Settlement. A rent survey may be made and if the rent is found excessive in particular areas it may be reduced. And necessary amendment in the Bengal Tenancy Act may be made providing for the maximum rate of enhancement per acre on the basis of actual produce, beyond which no enhancement should be permitted.

**Q. 50.** The answer to this question is not necessary in view of our previous answers.

**Q. 51.** Such was never the intention of the framers of the Permanent Settlement. As a matter of fact it is doubtful if there was any pargana rate at all. Moreover such intention on the part of the framers of the Regulation could only be possible if all the raiyats at that time held at a uniform rate of rent. Admittedly raiyats were holding at different rates of rent. So, how could it be expected that future settlements would be based on uniform rate of rent?

**Q. 52.** Fair and equitable rents should not be determined by reference to abstract general principles of economics. It must take existing rate of rent into account in a particular area and an average rate may be found out for each class of land in that area and that should be the criterion of the fairness of rent. The rate of rent also has a historical background which should not be lost sight of in preferring theories. Of the six theories mentioned each might have contributed to the present rate of rents in the province. Of the theories, the theory for appropriating only unearned income or its parts leaving the profits of agriculture to the cultivating tenants seems to be the most commendable if landlords are allowed to get in addition a return for their improvements. But in India, it will be impracticable to follow any such theory strictly; safest course would be to rely on what history and practical experience have handed down to us.

**Q. 53.** Rents in this country will not strictly bear out the scrutiny of any of the principles mentioned above. Most of them are lump

rents, though in many cases a principle of differentiation is attempted but that is very crude. They are mostly fixed on custom and competition, although productivity is taken into some consideration, and it is also very true that rates differ for lands of similar value—though not greatly. But all these do not show that rents are inequitable, as the rate of rent prevailing in different parts of the country is much below the rate that would have been justified by following the first system suggested in question 52. The major part of the unearned income is left to the cultivating tenant in this land.

**Q. 54.** Not necessarily. Sometimes the weaker and the poorer tenants get remissions from landlords and get concessions as to rate of rents. But no doubt, there are unscrupulous landlords and unscrupulous agents who take undue advantage of the weakness and poverty of tenants in the bargain of settling rents.

**Q. 55.** If State takes up land, rents should be adjusted on the existing basis. Uniform rate throughout the province will cause unfairness. We would advocate the same principles as in our answer to questions 52 & 53.

**Q. 56.** It is not worth considering. This is an archaic idea of taxation. Moreover it will involve serious complexities and costs in determining the quota and perhaps harassment to tenants.

**Q. 57.** Rent should never be fixed for perpetuity. It ought to be made to depend on the money value of crops subject to maximum and minimum limits beyond which alterations should not be allowed. Rates of rent need not be examined periodically. It ought to be left to landlords and tenants to adjust the rates according to law.

**Q. 58.** Income-tax on the profits from agriculture as suggested in the place of rent or revenue, will confuse the public finances of the province. A large proportion of land will escape payment if incomes below a certain figure are exempted. And this proportion will ever increase owing to divisions and subdivisions.

**Q. 60.** Enhancement due to fluvial action can by no means be objected to. Regulation XI of 1825 (the Bengal Alluvion and Diluvion Regulation) registered the existing custom to the effect. Moreover deviation from the rule may mean abrogation of the Permanent Settlement to some extent. The accession causing reformation *in situ* should entitle landlords to claim enhancement if rents were reduced for corresponding loss to tenant by diluvion. Regulation 7 of 1847 gives the State sufficient compensation by enabling to assess accretions which are not reformations *in situ* and accretions to estates which were allowed abatement on account of diluvion.

Again if fluvial action increases productivity of soil, landlords as proprietors should legitimately get enhancement of rent. Benefit of

increased productivity should go both in landlords and tenants. If Government lays any claim to any share of this increased productivity, that will be an interference with the Permanent Settlement.

**Q. 61.** No.

**Q. 62.** Meaningless. To carry out the implication of the question into action is simply impracticable and will practically take away the right to enhance rents.

**Q. 63.** There can be no objection to the ground of enhancement under the condition mentioned. Cheap and expeditious provision for registering tenants' improvements may obviate the difficulty. Salami is never advance rent. It has been always a competitive and customary premium paid and has always been a part of the value of land. Moreover this question of salami is no longer pertinent except with respect to khas lands—the entire value whereof is landlord's due—by whatever name it is called salami or price.

**Q. 64.** Our answer to question 49 covers the answer to this question.

**Q. 65-70.** We do not deem them necessary to answer. Only this can be stated that revisional settlements are necessary both in the interests of the tenants and landlords. But these have never been done with the object of enhancing revenue.

**Q. 71.** In permanently settled areas, though remissions of rent are always given by landlords, landlords do not get any remission on the score of revenue. We do not know the state of things in khas mahal areas.

**Q. 73.** No evidence. But it is true that productivity is decreasing owing to the operation of the natural laws as there is practically no manuring to increase the fertility. Government steps are quite inadequate, if not ludicrous. The agricultural department of the Government is a stupendous failure.

**Q. 74.** The agriculturists have not taken advantage of the Acts mentioned. This is due to the ignorance of their rights and the required amount of civic sense. Moreover the acts cast on them also corresponding obligations which the tenants are too poor to bear.

**Q. 75 & 66.** Government management of khas mahals is worse than the management of the zamindars. Salami realised by Government is not at all used for improvement of the lands. And we find no improvements being effected by the Government on lands.

**Q. 77.** The Government policy or the land system are not positively responsible for the uneconomic condition of the raiyats. The reason is to be sought elsewhere. So no question of modification of the land

system arises. It is due to over-population, improvidence, want of moral check on the growth of families, thoughtless propensities leading to polygamy and other causes of the like nature.

**Q. 78.** It is very difficult to estimate. Almost all raiyats have not sufficient lands to maintain their family. The income from sources other than land are almost nil in this province.

**Q. 79.** Not competent to answer.

**Q. 80.** All the methods suggested in the question should be adopted. Supplementary and cottage industries must be organised. Co-operative marketing organisations should also be set up. But cattle insurance will be impracticable. Above all propagation of the ideas as to improved manuring and improved modes of cultivation should be undertaken by the State. Moreover railway freights as to agricultural produce and manure should be reduced to facilitate marketing. Statutory provisions should be made to fix the minimum price of the important industrial crops.

**Q. 81.** Certainly, the pressure of the population is the principal cause. But they can be neutralised to a great extent by the ameliorative measures suggested in question 80. The facts that large number of people are landless and that one raiyat barely has one acre of land on the average indicate the pressure of population on land. The low standard of living of the agriculturists also speaks for itself. The congestion of agricultural population in Bengal has reached its last limit. Every square mile of agricultural land contains about 646 persons on the average. Thus one man possesses less than an acre of land which yields less than Rs. 49 a year. It is of course difficult to ascertain the percentage of the surplus population. If one acre to a man is considered sufficient, then we think the last limit has already been exceeded. And if we consider two acres just sufficient for a man, then half of the present agricultural population should be removed to some more profitable channel.

**Q. 82.** By creating occupations other than agriculture we can to some extent relieve this pressure. Creation of large scale industries is no doubt necessary, but immediately cottage industries should be organised to relieve the agriculturists to some extent. Government-aided factories cannot relieve the widespread agricultural unemployment. Above all, Government should pursue a comprehensive industrial programme to relieve the widespread unemployment.

**Q. 83.** Agricultural credit can be improved by starting agricultural State banks which shall grant loans on the basis of agricultural produce and attract deposit by State guarantees.

**Q. 84.** It might have been previous to the year 1930, i.e., depression. Since the depression, mahajans get nothing and even now

mahajans cannot realise their dues owing to the operation of the Bengal Agricultural Debtors Act. Anyhow subject to the control of the rate of interest and proper safeguards against usurious loans, confidence generated in the minds of private moneylenders and inauguration of agricultural banks on the line suggested in answer to question 83 can only stop this so-called drain.

**Q. 85.** Co-operative credit societies have failed altogether. They are no better than moneylending institutions. Many agriculturists had become their members only to ruin these banks and their depositors. The value of co-operation has not been appreciated. Loans have been advanced by these banks thoughtlessly without any regard to the ultimate borrowing capacity of its members. Co-operative societies instead of wiping out the debts of their members, have only added to them. So there has been no benefit to the agriculturists.

**Q. 86.** Debt Settlement Boards have smashed rural credit. They are run by uneducated personnel with questionable probity. These could render some service both to the debtors and moneylenders if their adjudication would have been left to the judiciary or a body equally capable, aided by lawyers. Owing to the inauguration of these boards and their working it has been very difficult to get money on credit. So the raiyats are compelled to sell their land in case of pressing necessity. So it has completely failed to deal with the problem of rural debts rather it has shattered rural credit and the chances of its revival.

**Q. 87.** *Vide* answer to question 83.

**Q. 88.** Land Mortgage Banks have worked within very narrow limits. They have not sufficient resources to finance rural credit. Their funds can be augmented by issuing state guaranteed shares and debentures and receiving deposits based on state guarantee. On the other hand these banks should have peremptory power to realise their mortgage dues subject to the rent and other prior charges on the lands of their debtors. Without some peremptory power, the rural credit cannot be revived from its present miserable state.

**Q. 89.** Certainly, the machinery is cumbrous and expensive. Long-drawn litigations have to be fought to have the rents realised. Moreover it adds heavy costs on the shoulders of the tenants. Moreover at present, landlords have lost their right to selami, pre-emption, etc. Thus being deprived of almost all kinds of extraneous incomes other than rent, they should get summary rights to realise their rent dues.

*Ad valorem* court fees should be dispensed with in rent suits. On the mere application and proof of arrears after notice to tenants landlords should have peremptory right of sales subject to a right of deposit by tenants or any interested person within a decent period of grace. Only

the cases which involve the determination of the rate of rent and question of title interparts should be classed as regular suits and court fees thereof should be demanded on defence being filed. Delivery of possession on virtue of sale certificates should be considered as conclusive evidence of possession for the purpose of criminal trespass and mischief.

**Q. 90.** It is harassing to some extent as it increases extraordinarily the interest on arrear dues. Otherwise there cannot be much objection to it if questions as to the rate of rent or title are referred to Civil Courts before final processes are issued.

**Q. 91.** All revenue laws and regulations and tenancy laws and procedure for rent suits should be consolidated into one comprehensive Land Act without deviating from the principles, we have mentioned in answer to this questionnaire.

**Q. 92.** Revenue sale law providing for peremptory sales of estates on arrears of revenue should be amended so as to give a decent period of grace after sale and before confirmation. Moreover tenures which are now annulable on sale should be made protected interests, if their rent demands to superior landlords are not dishonestly manipulated and if they do not stand in the name of any relative of the landlord. And the rigors of Regulation VIII of 1819 as to sale of patni tenures should be removed.

**Q. 93.** Landlords will be hard hit, without almost any corresponding gain to tenants. Landlords will lose about 40 lakhs of rupees as their annual income on account of transfer fees. By this legislation landlords have been seriously handicapped as to the choice of their tenants which they have been enjoying from time immemorial. This is a direct interference with their right to property. The present enactment has thus reduced them to mere receivers of a sort of malikana (rent) without any right in land. This has been more or less a sort of expropriation without compensation. The effect of this legislation is already felt in the country. People are grumbling under a sense of insecurity as to their rights to private property, while the lowest strata of tenants are being flared up with fantastic and unusual expectations leading to direct repudiation of all sorts of contractual engagements. Thus the whole social equilibrium has been upset. This law coupled with the notorious Bengal Agricultural Debtors Act has filled the cup of misery to its fullest brim in the province.

**Reply by the Bar Association, Nadia.**

**Q. 1.** The description is not exhaustive nor did the Permanent Settlement take away any right from the tenants. (*Vide* sections VII and VIII.)

**Q. 2.** The Permanent Settlement did not give any new right to the zamindar to deal with the tenant.

**Q. 3.** Scarcely anything to develop economic condition of the country except founding some educational institutions and giving charities to hospitals, etc.

**Q. 4.** Both the propositions can be supported. In fact much may be said in support of either view.

**Q. 5.** The elements of any pledge is wanting in a statute. All persons are affected thereby. There was no offer and acceptance between the Company on one hand and the zamindars on the other. When tenants' rights are mentioned therein, it cannot be said that they were overlooked. That the financial resources are crippled appears from subsequent development. Very probably the Company had no idea at the time that there will be such a large margin to the zamindars a hundred years from that time.

**Q. 6.** The increase is due to (*i*) and (*ii*).

**Q. 7.** The increase is to be ascribed largely to the increase of cultivation and reclamation of waste lands by tenants and to a certain extent to enhancement of rents.

**Q. 8.** As a rule the aristocratic and old family of zamindars treated the tenants with consideration and moderations. Some of the newcomers and generally all corporations who have stepped into zamindaris are persons who are guilty of bad treatment.

**Q. 9.** That the zamindars have not improved the condition of the tenants and have failed to carry out any of their duties are due to their absenteeism and lack of close touch between them and their tenants.

**Q. 10.** The question of economic good and of greatest good of greatest number was not even dreamt of by the authors of the Regulation. There has never been any uniform principle in the subsequent enactments for regulating the rights of landlord and tenant.

**Q. 11.** The criticism referred to in this question is not fully justified.

We are opposed to abolition. The grounds mentioned in the question are more or less based on political considerations and have nothing to do with reality.

**Q. 12.** Some reform is needed.

**Q. 13.** We advocate the imposition of a tax on agricultural income but at the same time suggest that the money derived from this source should be earmarked for agricultural improvement. In order to prevent absenteeism the tax should be so graduated that absentee landlords are required to pay a greater incidence of tax than those who stay in their zamindari.

**Q. 14.** Does not arise after answer to question 12.

**Q. 15.** Ditto.

**Q. 16.** The social structure in Bengal will be revolutionised if Permanent Settlement is done away with.

**Q. 17.** Does not arise.

**Q. 18.** Ditto.

**Q. 19.** (a) So far as our experience goes the raiyats will be far worse off if they come directly under the Government.

(b) No.

**Q. 20.** (a) Yes.

(b) Not affected.

**Q. 21.** The whole structure will be thrown out of gear.

**Q. 22.** Does not arise.

**Q. 23.** The words "occupancy right" is a new phrase but tenants with similar rights existed in the country from prehistoric days and their rights were in some respects much larger than what the occupancy raiyats enjoy—the machinery to enforce such rights might not be similar to what we have now got, but customary laws were predominant.

**Q. 24.** It would not be proper to compare the present day administrative conceptions with what prevailed in pre-British period. There was hardly any difference made between public revenue and privy purse and the ruling authority was responsible for the safety and administration of the state.

The administration was left to the proprietors or zamindars who not only collected rents and remitted to the superior authorities but afforded protection to the tenants.

**Q. 25 and 26.** There is no harm in conferring right of occupancy to the actual cultivator.

**Q. 27.** Permanent Settlement does not make any distinction between agriculturist and non-agriculturist tenant. Permanency of

same sort should be given to non-agriculturist tenants as well. "Occupancy right" in the latter case would not be a happy term as the phrase has acquired a confused connotation.

**Q. 28.** Already answered above in questions 25 and 26.

Why should non-agriculturist be penalised.

**Q. 29.** Do not know if the number has increased.

**Q. 30-36.** No answer. We have no barga in sadar subdivision.

**Q. 37.** (a) Yes.

(b) Yes.

(c) No, because cultivation is not paying in most of these cases.

If right to transfer is given it is not proper that it should be restricted.

**Q. 38.** As the fertility of the soil varies in different parts of the country and intensive cultivation is unknown it is difficult to name a figure applicable for the whole of Bengal.

In the sadar subdivision of Nadia an average holding of 10 acres of land should give a living to a family consisting of five members under the present standard of living.

**Q. 39.** First part. Yes. Second part. Yes.

**Q. 40 and 41.** Consolidation of holdings for economic cultivation can only be done if the tenants co-operate in cultivation. If the tenants are educated in co-operative principles and then mutually express a desire for amalgamation, nothing else should stand in their way.

**Q. 42.** We do not consider the accumulation of large areas in one particular hand undesirable. It would minimise the inordinate pressure on the land which is harmful to the larger interest of the country and the particular person may cultivate a large area of land with scientific method and thereby get a larger yield.

**Q. 43.** Coparcenary leading to fragmentation is harmful.

Yes.

**Q. 44.** Leave it to be adjusted in the natural way.

**Q. 45.** No.

**Q. 46.** We do not suppose that there was any hidden meaning in the wording of the Regulation. The language is perfectly plain. There is no restriction to enhancement provided there is no breach of good faith or moderation.

**Q. 47.** Same answer as in question 46.

**Q. 48.** Same answer. The proprietors are enjoined to conduct themselves with good faith and moderation towards their raiyats.

**Q. 49.** As a matter of fact rents have not been increased to an appreciable extent. Even if such rent has been increased due to the increase of the value of staple crop, etc., it would be unfair to reduce such rent because most of the proprietors of the present day purchased their properties long after Permanent Settlement on the basis of rent-roll existing at the time of their purchase.

We do not think that the tenants have any grievance on that score.

**Q. 50.** Needs no reply in view of answers to questions 46, 47 and 48.

**Q. 51.** No such intention appears from the Regulation.

**Q. 52.** This question arises only in Government khas mahals.

In that case (2) appears to be most reasonable, i.e., half the profit of the cultivation after paying all expenses of cultivation including the food of himself and his family.

**Q. 53.** When rent was fixed on the proportion of produce it must have been paid in kind as at that time there was no regular currency system in the country. The landlords had big granaries and they converted the grain into money and paid into treasury or it may be that the landlords rendered other services to the then Government. After the Permanent Settlement when revenue was fixed in coins, the landlords also made attempts to get money rent instead of produce. The rent in kind was gradually converted into money rent, i.e., the bhowali into nagdi. This conversion has taken place within the course of a century and the result is that rent has varied owing to the price of foodstuff prevailing at the time of conversion which was not uniform. This is the reason why there is no uniformity of rent even within a pargana.

The present rent therefore does not come within any of the descriptions mentioned in this question or in question 52.

**Q. 54. (a)** No.

(b) Already answered in question 53.

**Q. 55. (a)** Yes.

(b) Principle laid down in question 52, clause 2.

(c) No.

**Q. 56.** Share would vary according to the productive power of the land and the cost of cultivation.

**Q. 57.** (a) Periodical assessment.

(b) At least twenty years.

**Q. 58.** (a) Income-tax would be more equitable.

(b) Yes, if the cultivators are not properly instructed in scientific agriculture, a duty which the State should undertake.

**Q. 59.** As the existing rent is not based on sound principle the fixation of fair and equitable rent or enhancement on the basis of existing rent is bound to be defective.

**Q. 60.** (a) Yes; (b) No. All parties should get the benefit of the unearned increment.

**Q. 61.** No; because the original fixation in our opinion is based on conversion.

**Q. 62.** This equitable principle not being followed in the case of assessment of income-tax we do not see any reason why the agriculturist should get its benefit.

**Q. 64.** No. We are opposed to interfere in contracts. No useful purpose will be served in limiting rents for new settlements as the parties can avoid it by the payment and acceptance of high premium.

**Q. 65.** The procedure in (a), i.e., temporarily settled Government estates are too drastic but not so in permanently settled estates.

**Q. 66.** No answer.

**Q. 67.** Yes, in Government estates.

**Q. 68.** No answer.

**Q. 69.** No answer.

**Q. 70.** Due to the caprice of the Settlement Officer.

**Q. 71.** Varies widely in different parts of the district. The answer to this question will not be within our scope as members of the Bar.

**Q. 72.** We are not aware of any case where such remission has been asked for by the zamindars.

**Q. 73.** Yes, the productivity is generally on the decrease in Nadia district. The reasons are many—some natural and others due to the apathy of the Government and the growing poverty of the people.

**Q. 74.** Not at all. Practically speaking Bengal Sanitary and Agricultural Improvement Act can be taken advantage of by the local authorities as also by private individuals but they are afraid of costs and this is perhaps the reason why the local Government also does not proceed under the Bengal Development Act.

The comparison of yield of predevelopment period with the yield of land after development on which the assessment of rate would be based will be a very disputable point.

The agitation in Burdwan (although the Damodar Canal is not an operation under this Act) has frightened people and we are of opinion that these Acts would continue to be dead letters.

**Q. 75.** We are not aware of Government spending any money in the khas mahal of the district. There is no colonisation area in the Nadia district.

**Q. 76.** No answer.

**Q. 77.** General policy of Government is one of apathy due perhaps to the Permanent Settlement of Revenue in the province.

**Q. 78.** The average income of the raiyat from his holding is given in the report of the Bengal Banking Enquiry Committee Report. It is much less than what his bare living would cost, taking the unit of holding as 15 bighas and a unit of family of 5 members (man, wife, 2 children and one dependant). The cost of living having been calculated at the average jail ration.

The income from only other source is unskilled labour for those who lived near about a town. For others, nothing practical. A very small percentage can maintain themselves from their income.

**Q. 79.** No answer.

**Q. 80.** The suggestions are detailed in the question. We would suggest the first four.

**Q. 81.** Undoubtedly.

But there is another reason, namely, the pressure is not evenly distributed over the whole area. Even if the population is evenly distributed over the area, at least 25 per cent. may be considered as surplus.

**Q. 82.** This is one of the means no doubt but at the same time legislative steps should be taken to prevent outsiders to come in and engage themselves in the factories.

**Q. 83.** The raiyats as a rule have no credit. Their necessary expenditure exceeds their income. This is the reason why co-operative banks in Bengal are to-day in such pitiable condition. Unless steps are taken to train them in improved agriculture no improvement in agricultural credit is possible.

**Q. 84.** Mahajans are necessities in the present day economic structure of the country. The raiyats not having any credit has to

borrow. Even co-operative bank could not help them but the mahajans have human sympathies and would not kill the debtors—whereas the banks being corporations are bereft of all human elements and kill their debtors.

**Q. 85.** Co-operative societies have only increased the indebtedness of the tenants and the societies themselves are on the way to ruination. Most of the middle class people have deposited their money in the central banks from which societies draw their money. All these money have now become unrecoverable.

There is no provision by which borrowing outside is prohibited. The result is that the members of societies have borrowed from the society as well as from outside mahajan.

In the Sadar subdivision of Nadia there were about 250 societies with about 6,100 members in 1935.

**Q. 86.** Debt Settlement Boards have just begun to function in this district. It is too early yet to opine.

**Q. 87.** If the Government enacts that the agriculturists must wipe out their outside debts by borrowing from agricultural banks only and not from outside and if the banks be in a position to pay up their total outside debts then it may improve the position.

**Q. 88.** We have no Land Mortgage Bank in this district.

**Q. 89.** It is difficult to suggest a better method. It is harassing and costly because of the court fee expenses which should be very much lowered and which ultimately fall on the tenants.

**Q. 90.** Yes, (1) the tenants have hardly any opportunity to have their say.

(2) The method is heartless and the machinery moves like the inexorable law of nature.

**Q. 91.** They should be codified in an up-to-date form but the merit of those Regulations is in their preambles. It would be a pity if they are done away with.

## Reply by the Noakhali Bar Association.

**Q. 1.** It is not exhaustive. Main object was to replenish empty treasury and to ensure public revenue by bringing in peace in the country, for the country was in a state of chaos and anarchy.

Clause (c) of the *quid pro quos* is not a correct interpretation of the Regulation, for we find in section 8 of Regulation I of 1793, zamindars were enjoined to conduct themselves with good faith and moderation. We find no indication in the Regulation or in the subsequent rent laws passed for protection of rights of tenants any indication that rent payable by them was ever meant to be permanent.

Trend of rent laws passed since 1793 rather show raiyats had precarious rights before, but gradually their right to the land was recognised.

**Q. 2.** Zamindars being declared "proprietors" of the soil practically they were treated as arbiters of the faith of raiyats. As to dependant taluqdars of course zamindars were given right to enhance rent under certain restrictions.

**Q. 3.** Zamindars and permanent tenureholders contributed much to the reclamation of waste and jungly lands. The country was depopulated owing to calamity of 1770 and it was these people who contributed much in utilising labouring classes in organised way and spent money over improvement as their right in the land was secured. They were intelligent and had organising capacity—Numerous tanks, khals known after the name of old zamindars and taluqdars throughout the length and breadth of Noakhali and Tippera testify to the view.

**Q. 4.** Some were and some were not actual proprietors. We find there were many taluks existing from before the Permanent Settlement, and some of them were independent and some dependant taluks; the former were as good as a zamindari and the latter were valuable permanent interests (*vide* section 6 of the Bengal Tenancy Act and section 51 of Regulation I of 1793).

**Q. 5.** It is more or less academical discussion and opinion differs on this point.

**Q. 6.** All the three causes are true.

That zamindars and tenure holders induced people to accept lands in raiyati right by allurement is a proverb in our district, though with the increase in population and passing of rent law giving right of occupancy to raiyat such necessity disappeared.

**Q. 7.** It requires survey and consultation of records of zamindars and Government.

**Q. 8.** Not fulfilled in the case of most of the absentee landlords.

Tendency of educated people to settle in towns is primarily responsible.

**Q. 9.** Resident zamindars and tenureholders generally improved their estates by industry, enterprise and good management. Numerous tanks and khals excavated by them still bear witness to this.

Failure is mostly to be found in estate belonging to absentee landlords.

**Q. 10.** No, it benefited Government more than anybody else.

**Q. 11.** Criticism is justified if taken as a whole.

**Q. 12.** We do not advocate immediate abolition, for the present system of Government cannot give us better substitute and meet unemployment and open fresh avenues for earning livelihood.

**Q. 13.** Loss of revenue is not the only look-out of the Government.

Before discovering means for recouping loss we should find out ways and means to better the condition of the people at large agriculturists, craftsmen, middle interest holders, petty landholders and big zamindars all alike.

**Q. 14.** Yes, compensation at 15 to 25 years' purchase is to be given.

**Q. 16.** There will be chaos in society. One class will be thrown out of resources and a new middle class will grow, agriculturists will not be able to better their condition unless foreign exploitation is checked, craftsmen are encouraged and agriculture is conducted on co-operative and scientific basis.

Present system of education has created a gulf between agriculturists and educated people who crowded service and learned profession as this system hindered our people to take to diverse occupation. Private charity is meeting demands of landless people and charitable institutions for medical aid and educational institutions have come into existence mainly through charities of zamindars and middle class. Unless the State arrange for feeding the poor, make numerous hospitals and educational institutions for imparting vocational training and study of science it would be detrimental to the best interest of the country to kill the middle class. In short if Government help in industrialisation of the country, then and there only land laws may be amended by abolishing middle interests.

**Q. 17.** If zamindaris are abolished, tenures should also meet with same fate.

**Q. 18.** Additional machinery will cost nearly 25 per cent. of the additional income.

**Q. 19.** From our experience in Noakhali we may say they will not like—we do not think that khas mahal raiyats are better off than their brothers in the permanently settled area.

**Q. 20.** Subinfeudation in most cases compelled the raiyat to owe allegiance to his neighbour who has either fondness or prejudice against him. Economically raiyats were not losers in majority of instances, but wealth of country instead of being invested in industry was confined to land.

**Q. 21.** Unless effective measures for industrialising the country be taken many middlemen will be reduced to poverty and there are people who own both raiyats and tenures and these people are numerous in the country—State purchase will increase number of unemployed if fresh avenues are not opened before or simultaneously.

**Q. 22.** There should be a register for such khas lands and survey and record-of-rights be prepared; but when disproportionately larger area is found in possession of one family, reasonable area as khas lands for maintenance of the family of those persons may be allowed and that should find place in the register.

**Q. 23.** Occupancy right existed from before Permanent Settlement but it was at stake since Permanent Settlement—but rent law since 1885 restored the right to cultivators.

**Q. 24.** Yes.

“Proprietor” connotes that he has right to levy fair and equitable rent on tenants’ holding under him.

**Q. 25.** Under-raiyats should have occupancy right as provided for in the amending Act of 1929.

**Q. 26.** Mere cultivation of soil should not be considered as the criterion for confirming occupancy right but if a raiyat sublets his entire holding he should be treated as tenure-holder especially when area covered by the holding is over 100 bighas in one village or one zamindari.

**Q. 27.** Protection as declared meant for all agriculturists and non-agriculturists, but right against eviction was not expressly conferred on tenants as the subsequent legislation recognised right of eviction under certain circumstances in Transfer of Property Act and Rent Laws.

**Q. 28.** Already income-tax is levied on income received from markets. There is no reason to treat the non-agriculturists like the agriculturists.

**Q. 29.** In this district not appreciably increasing.

**Q. 30.** The amending Act of 1929 placed the bargadars who paid fixed quantity of paddy in the position of raiyat or under-raiyat.

So factor (i) did not contribute to the increase.

Factors (ii) and (iii) are partially correct.

**Q. 31.** Not more than 5 per cent.

Yes, majority are so but their raiyati or under-raiyati area being inadequate for their maintenance they vie with one another to secure barga lands.

**Q. 32.** No, it will create a new class of tenants at the expense of people of small means and question of unemployment will be acute.

In many instances bargadars themselves will lose their barga lands and will be reduced to the position of day-labourers. Now an honest cultivator, no matter what his solvency is, is offered barga land and he makes profit as a respectable peasant without employing capital or taking liability for rent in the year of drought or other visitations of nature causing failure of crops.

**Q. 33.** In the absence of better work yielding profits it is not bad.

**Q. 34.** Effect will be that poor people will be hard hit.

**Q. 35.** Not more than half. No.

**Q. 36.** Bargadars are in better position and do not depend on more chance for getting suitable work to earn their livelihood like the landless people.

**Q. 37.** No; economic depression, tendency of non-payment and working of the Bengal Agricultural Debtors Act made investment in land unattractive.

**Q. 38.** On the average one acre per head, but may be less if yield may be increased by application of manure and science.

**Q. 39.** Yes, the laws of inheritance may be so amended as to provide compensation for certain heirs in lieu of share in land.

**Q. 40.** Yes, it is possible if co-operative system is introduced and people are encouraged to take to vocational training.

**Q. 41.** Yes.

**Q. 42.** Yes.

Speculation may be prevented by introducing co-operative system, and in our educational institutions "agriculture" should be a compulsory subject to create interest in boys and make them conscious that Bengal really depends on agriculture.

**Q. 44.** Yes.

- Q. 45.** Same answer as for questions 40 and 41.
- Q. 46.** From the trend of legislations since 1793 up to 1928 one cannot be blamed if he thinks so.
- Q. 47.** No.
- Q. 48.** We do not believe so.
- Q. 49.** No sufficient materials.
- Q. 50.** Cannot answer.
- Q. 51.** Pargana rates cannot be found in this district.
- Q. 52.** Nos. 1, 2 and 4 may be experimented according to circumstances.
- Q. 53.** All the conditions exist even in particular locality, in permanently settled area. "Custom" has now almost fallen into disuse.
- Q. 54.** It is not in our experience.
- Q. 55.** No, new record-of-rights would be required.
- Q. 56.** It is not possible to go back to old system as produce of land cannot be substituted for money as medium of exchange for carrying on import and export trade with distant countries.
- Q. 57.** Rate should be revised after every 15 or 20 years.
- Q. 58.** When there will be enlightened social consciousness (not sectional or communal) then and there only we may think of such system.
- Q. 59.** Enhancement may be restricted till better rent law is substituted but punctuality of payment of existing rent is to be enforced by legislation. Simple and less costly methods to be introduced for speedy recovery of rent.
- Q. 60.** There should be nominal enhancement at interval of 15 to 20 years.
- Q. 64.** Yes.
- Q. 65.** Both kinds of estates should be governed by same rules and existing provisions in Part II for permanently settled estates should be adopted for temporarily settled estates khas mahals.
- Q. 66.** We do not know of any unusual enhancement.
- Q. 67.** Yes, it is found in practice.
- Q. 69.** Khas mahals tenants made it a grievance in some locality.
- Q. 70.** Because different officers hold different views.

**Q. 73.** Productivity is on the decrease as no improvement on scientific line was made and not a single piece of land is left without growing any crop owing to hard competition and dearth of land.

**Q. 74.** No interest was created in educated people to take to cultivation; khas mahal for the last 3 decades or so did not encourage educated people to take to cultivation. There was occasional attempt but without success. Opinion may differ if we enquire into causes but it is a fact that these Acts were never attempted to be made popular or understandable to the mass of people.

**Q. 76.** Yes, probably since 40 years or so.

No.

**Q. 77.** General policy is more responsible. Educational and judicial systems are responsible for litigious habit and ignorance of the mass and desertion of village by educated people.

Vocational training was not encouraged—machinery crushed small industries and indigenous products did not find good market owing to indifference of state and the cultivators themselves being ignorant and disorganised reduction of rent will not much help in improving the condition of cultivators. Any how further enhancement of rent should be restricted.

**Q. 80.** All the methods suggested should be experimented.

**Q. 81.** Reason is not only pressure of population but economic exploitation of the country by non-Bengalees and non-Indians in every field of trade and labour and as Sir P. C. Roy pointed out in course of his career lecture at the Calcutta University.

**Q. 82.** To industrialise the country and to prevent foreign competition to small and infant indigenous industries by legislation.

**Q. 83.** To issue debenture loan to agriculturists and rural banks to help agriculturists contemplated in the Reserve Bank of India Act.

**Q. 84.** Village moneylending has already disappeared: so this question does not arise.

**Q. 85.** Not much; rate of interest is high though not too high.

Illiteracy of agriculturists is responsible for failure of this movement. Unless educated people are drawn to village life such movement will not meet with success.

**Q. 86.** In Noakhali villages moneylending has stopped altogether.

**Q. 87.** Government should establish some such bank as contemplated in the Reserve Bank of India Act in view of abolition of village money-lending.

### Reply by the Pabna Bar Association.

**Q. 1.** The description is virtually exhaustive. The future ease and happiness of the people, being the object of the Permanent Settlement, the zamindars, as a party to that settlement, are under a further obligation to promote the ease and happiness of the people and to conduct themselves with good faith and moderation towards their tenants.

The Permanent Settlement declared the zamindars to be the actual proprietors of the soil. The result was that in some districts proprietary rights were conferred on persons who had formerly no such right; while in other the Regulation confirmed their existing rights.

Hunter says in his "Annals of Rural Bengal"—that in some districts the landholder was almost independent of Mussalman Viceroy, in others he was a bailiff appointed to receive rent. It fell out therefore that those collectors who had to deal with districts in which landholders were not real owners, complained that the Permanent Settlement had stripped the tenants of their rights and ruined them.

All these complaints are due to the fact that specific provisions were not made in Regulation I with regard to the rights of the tenants. But before the passing of the Regulation, the Court of Directors directed the Governor-General in Council to recognise the existing rights of the tenants. But as those rights could not be definitely ascertained at the time, they directed the Governor-General in Council to leave an opening for future legislation protecting those rights. This was retained in the form of a safeguard (Article VII of Regulations). (*Vide Fifth Report, Vol. I, pp. 33-34.*)

**Q. 2.** The zamindars were recognised as the actual proprietors of the soil; and as such they had the unfettered right to choose their tenants. By Article VIII of Permanent Settlement Regulation they were to choose their tenants and to dispose of their estate.....to whomsoever they think proper by sale, gift or otherwise, "subject to the Muhammadan or Hindu Law or not repugnant to any provision of law existing or to be enacted in future."

The Court of Directors directed the Government "to leave an opening for the introduction of measures which may prevent the raiyats being improperly disturbed in their possession." They wanted to protect the existing rights of the tenants. But as the rights could not then be fully ascertained, a safeguard of the tenants' claims was retained in the Regulation in Article VII (I) of the Permanent Settlement Regulation. (*Vide Fifth Report, Vol. I, pp. 33-34.*)

So the freedom of choice was limited by the existing rights of the tenants. (*Vide Fifth Report, Vol. I, p. 47.*) (*Vide also Regulation VIII of 1793, 49th and 51st sections where rights of istemardars and dependent talukdars have been safeguarded.*)

The zamindars were to utilise the land for the economic welfare of the province.

**Q. 3.** Hunter says in his "Annals of Rural Bengal"—when in 1790, the British Government pledged itself not to lay any further tax on reclaimed lands, capital quickly found its way to its natural destination for the improvement of the soil. Every able-bodied husbandman was welcome to as many acres as he could cultivate.

Field says in his Landholding "At the time of Permanent Settlement, a large portion estimated by Lord Cornwallis at one-third, at one-half by others and by some two-thirds of the land, capable of cultivation, was waste and probably was never otherwise," and "large tracts of land were rapidly reclaimed and brought under cultivation.

Mr. Field further quotes Mr. Dowdeswell from his Minute of 1811—"Vast tracts of land had been reduced to cultivation during 18 years that had elapsed since the Permanent Settlement" (Revenue Selections, p. 172.)

Mr. Colebrooke in his Minute of 1813 says—"Increase of agriculture has proceeded with rapidly surpassing expectation and in the greatest part of the country has already reached its limit unless it receives new impulse from the introduction of improved modes of husbandry. With the extension of cultivation, the zamindars have built up numerous institutions of public benefit, they have dug numerous tanks for drinking water. All these go to establish that they have fulfilled the task expected of them.

Before 1859, numerous complaints were made about the long career of oppression of the zamindars and rack renting of the tenants. But that was due to the fact that the rights of the tenants were not specifically defined in the Permanent Settlement Regulation. After the tenancy legislation of 1859 and 1885, the relationship of the zamindars and tenants has much improved; and the tenants are now on a more secure foundation about their rights.

**Q. 4.** It cannot be said of all the zamindars that they were collectors of revenue before the Permanent Settlement. Hunter says in his Annals of Rural Bengal (p. 373) that "in some districts, the landholder was almost independent of the Mussalman Viceroy". They exercised a sort of sovereign right subject to the payment of some annual revenue or rendering some service to the State. They were not mere collectors of revenue, but proprietors of land. In other districts

the zamindars were collectors of revenue, "the bailiffs appointed to receive rent". So that whether the zamindars were collectors or proprietors depended on the varying circumstances of the districts. But it must be admitted that the office was hereditary; as such they were not mere collectors.

But whatever might be the position before, after the Permanent Settlement, they were recognised as actual proprietors.

**Q. 5.** The Permanent Settlement is a solemn pledge in which it is definitely stated (Article VI, para. 11) "Zamindars.....are to consider these orders fixing the amount of assessment as irrevocable and not liable to alteration by any persons, whom the Court of Directors may hereafter appoint to the administration of their affairs in this country".

It has been further laid down in Regulation I (Article VI, para. 3), "No demand will ever be made upon them or their heirs or successors by the present or any future Government, for an augmentation of the public assessment in consequence of the improvement of their respective estates".

That is the solemn pledge given by the Governor-General in Council under the direction of the Court of Directors in pursuance of a parliamentary statute—statute 24, George III, Chap. 25, in 1784, the 39th section of the statute required the Court of Directors to give orders for settling and establishing upon principles of moderation and justice according to the laws and constitution of India, the permanent rules by which the tributes, rents, services of the Rajas, zamindars, etc., should be in future rendered and paid to the united Company. In pursuance of the above statute it was declared by the Court of Directors that it would be within the spirit of the Act to make permanent revenue to be fixed. The Permanent Settlement is in the nature of a contract with the zamindars by the East India Company.

In 1858 the Government of the East India Company passed on to the British Crown, the responsibility and functions of the Court of Directors devolved on the British Parliament. Therefore no subordinate Indian Legislature can enact any law which will have the effect of unilaterally nullifying the Permanent Settlement. Therefore the pledge is not only morally solemn but it is legally binding on all future Governments of India or provincial Governments. But the Permanent Settlement can be abolished only when there is mutual agreement between the zamindars and the Government.

From very ancient time, the Crown was the "Lord Paramount of the soil". As Lord Paramount, the Crown has the full freedom to dispose of the proprietary right in favour of anybody that he might choose. The choice fell on the zamindars. The tenants have the

right of protection. The State has taken upon itself the responsibility of protection of their life and property. In fact, Regulation I itself contains such safeguard, reserved for the future legislation for the welfare of the people. Hence neither can the tenants intervene nor need they intervene in such settlement.

Financial resources of the country have not been crippled by Permanent Settlement. In Bengal 74.2 per cent. of the total area is under cultivation. In Bihar and Orissa, 46 per cent. of the total area is under cultivation. As compared to the above, the Punjab has 3.2 per cent. of the total area under cultivation, Bombay has 9.3 per cent. of the total area under cultivation, Madras 29.5 per cent. under cultivation (a part permanently settled) and United Provinces 15.1 per cent. under cultivation (Province of Benares—P. S.)

Bihar & Orissa 441 per square mile.

Madras 311 per square mile.

United Provinces 445 per square mile.

Bombay 167 per square mile.

Punjab 246 per square mile.

From the above it appears that prosperity is more in the permanently settled area.

The rate of rent is lower in the permanently settled estates than the rate in khasmahals and temporarily settled area. Hence the tenants are getting the benefit of the lower rate of rent. Numerous public institutions have been established by the zamindars. In fact without Permanent Settlement the country could not have recovered from the shock of the terrible famine of 1770 that brought in depopulation and devastation. The zamindars have invested considerable sum that increased the value of land. All these prove that the financial resources of the country have not been crippled; on the other hand, it has increased with the introduction of the Permanent Settlement.

**Q. 6.** *Vide* answer to question 3. The object has been fulfilled.

(i) The increase in the area of cultivation is partly due to increase of population specially from the latter half of the 19th century. The earlier reports speak more of devastation and depopulation (*Vide* Pabna & Bogra Settlement Report, p. 30).

In Bengal population in 1891 was 39.1 millions and in 1931, 50.1 millions.

It has been increased by about one-third. This pressure of population has increased the area of cultivation.

(ii) Enterprise of tenants is another factor in the increase of cultivation.

(iii) The initiative and pecuniary assistance of the zamindars are mainly responsible for the extension of cultivation specially from 1793 to the first half of the 19th century (*vide* question 3).

**Q. 7.** (i) and (ii) At the time of Permanent Settlement the revenue was assessed at a high percentage of the produce—said to be even (10/11) (*Vide* Regulation II of 1793, section I), 90 per cent., yet the income did not exceed Rs. 2,68,00,989 as revenue. But the gross rental of the Presidency aggregated to Rs. 16,98,58,437 according to Land Revenue Administration Report of 1935-36. That shows the increased prosperity of the province is mainly due to the initiative and investment of considerable sum by the zamindars coupled with the enterprise of tenants.

(iii) Enhancement of rent is responsible for 15·94 per cent. increase in the permanently settled area.

In Government estates the rent has been enhanced to 37·45 per cent. within the years 1910 to 1935.

In temporarily settled private estates the enhancement is at the rate of 12·06 per cent. from 1910 to 1935.

**Q. 8.** The Permanent Settlement Regulation assessed the revenue on the zamindars in 1793 at a very high rate. But rights of tenants were left undetermined. The result was that the zamindars were charged with oppression and rack-renting for asserting their proprietary rights whch sometimes destroyed the rights of their tenants. Consequently tenancy legislation was passed in 1859 bringing about better relations between the landlords and tenants.

In spite of the charges, it must be said that the rate of rent existing at present is lower in permanently settled area than that in temporarily-settled estates and khasmahals. It is Rs. 3 per acre in permanently settled area while the value of produce per acre is Rs. 49.

In Cess Revaluation Report of Pabna value of produce is Rs. 19 per acre. Hence it cannot be said that the rate of rent in Permanent Settlement is not moderate. Whatever might be said the zamindars about rack-renting and oppression just after the Permanent Settlement owing to want of definition about the rights of the tenants, after the tenancy legislations of 1859 and 1885 the position has much improved now-a-days; and the relation of landlords and tenants is satisfactory (*vide* Land Revenue Administration Report of 1937-38).

The rent is more moderate in the permanently settled area than in the khasmahals and temporarily settled estates. About the generosity,

the numerous public institutions of Bengal stand on the munificence of the zamindars. Large numbers of rent free tenures in Bengal for the upkeep of the religious and charitable purposes speak of the generosity of the ancient zamindars. Excavation of numerous tanks for removing the scarcity of drinking water stands to their glory. In fact, if a survey is made about munificence of the old zamindars, it will establish that the zamindars have fulfilled their functions expected of them; nay—sometimes they did more than some of the present District Boards of Bengal.

But one duty the modern zamindars failed to carry out. The zamindars were enjoined to exert themselves in cultivation. But modern zamindars hardly care to exert themselves in the cultivation of their land.

Having an income sufficient to meet their style after meeting their revenues, they have stationed themselves in the big cities which supply them with the comforts of a luxurious style. The development of science and the quick means of transport have brought in competition which is growing keener with the passing of years. In order to keep pace with the progress, improved methods of husbandry should be introduced, modern knowledge should be diffused within the rural area. But still the people are encircled within the environment of the middle ages. For this the absenteeism of the modern zamindars is solely responsible. The scourge of malaria is destroying villages. Jungles are spreading around. The old tanks remain unreclaimed and serve as the hotbeds of injurious diseases. But the zamindars are satisfied with the annuities they get from their officers in cutcharies. The consequence is that they are looked upon with suspicion. They are too slow to keep pace with modern development of the 20th century; while their unsympathetic officers carry on their zamindaris and care not for the weal and woes of the tenants.

**Q. 10.** The Permanent Settlement has led to the benefit of the province as a whole (*vide* question 5). It would have been impossible otherwise for the province to recover from the terrible blow due to famine of 1770. It has created an enlightened and powerful middle class which has been the backbone of all progress.

Lower rate of rent enjoyed by the tenants is a feature of the permanently settled area. Hence it has been to the benefit of the largest number.

If the rent roll has increased it is mainly due to the exertion and initiative of the old zamindars. Consequently their own labour and investment are providing them with fruits to which they are justly entitled. But the tenants have not suffered for this increase as will appear from the lower rate of rent in the permanently settled estates.

Most of the modern zamindars purchased their property for very valuable consideration; and they are enjoying a reasonable profit for their investment. They are not getting any unfair advantage over their tenants.

**Q. 11.** (i) Zamindars do not get 80 per cent. of the profit. It is divided between the zamindars and the other intermediate tenure-holders of several grades. They get only a reasonable profit of their investment.

(ii) It is true that it has led to subinfeudation of tenancy.

(iii) Enhancement is not due to Permanent Settlement. It is higher in temporarily settled estates and khasmahals.

(iv) Overlordship is a matter of the past.

**Q. 12.** Permanent Settlement may be abolished if it has been archaic; and if the Government wants the benefit of the increased value of land, the proprietary interest may be acquired on payment of reasonable and proper compensation.

**Q. 13.** Not one of the suggestions need be accepted. If the Government wants to take advantage of the increased rental, they should pay compensation to the zamindars and acquire their proprietary interest.

**Q. 14.** Compensation should be paid on twenty years' basis.

**Q. 15.** Purchase of the net profit—10 per cent. should be deducted as collection charges and 5 per cent. as other incidental charges and depreciation. About 260 crores of rupees will be required which may be issued in bonds, redeemable in 100 years with 3 per cent. interests free of income-tax.

**Q. 16.** The money invested in land does not fetch liquid capital. The bonds received as compensation may be easily converted into liquid capital which may be invested in commercial and other profitable undertakings. This will modernise the present zamindaris. Tenants under the direct management of the Government will derive full benefit of their lands from improved method of cultivation introduced by the State. Thus an all-round improvement will follow. (*Vide* Prussian Tenancy Legislation of 1850 that placed Prussia in the front rank among the advanced nations of Europe—Field's Landholding, p. 53).

**Q. 17.** Yes. The raiyats should be directly under the Government. The advantage is stated in question 16. All the intermediate tenures between the zamindars and the raiyats should be purchased.

**Q. 19.** The rate of rent now-a-days in khasmahan being higher and the method of realisation being far more strict, the tenants under the present circumstance will be unwilling to come under the Government. But if the realisation is made according to the provisions of Bengal Tenancy Act, and not under the Public Demands Recovery Act, the position will be different. The rate of rent should also be lowered.

**Q. 20.** Doctrine of subinfeudation has been encouraged by the Permanent Settlement. It affects rate of rent to a certain extent.

**Q. 21.** *Vide question 16.*

**Q. 22.** The intermediate tenures should be purchased by the State. The method of purchase is answered above in questions 15 to 17. The homestead and khas lands should remain with the zamindars. The criterion is laid down in Chapter XI of Bengal Tenancy Act which should be followed.

**Q. 23.** The occupancy right is another form of khudkasht raiyati right (the right of the resident raiyat) which existed in the pre-British days. The term is first used in Act X of 1859.

**Q. 24.** From ancient times the Crown is regarded as the "Lord Paramount of the soil". Such was also the case in the Muhammadan period. Even khudkasht raiyats had some limited rights. They could enjoy the usufruct but they could not transfer. Hence the proprietary right did not vest in the raiyat.

Land revenue was never a tax. It was the share of the State as Lord Paramount of the soil. The very fact that it could be made permanent shows that it is not a tax.

Protection of State is extended to the agriculturists as well as non-agriculturists. Hence the tax of protection should have been paid by the landless also. But the landless do not pay any land revenue. Hence it is not a tax.

"Proprietor" does not mean the absolute ownership of a fee simple estate. It means the bundle of rights on land which make up the entire actual interest, a part of which may be the subject of use and disposal by different persons.

**Q. 25.** Occupancy right should be extended to all grades of tenants—raiayats or under-raiayats.

**Q. 26.** The doctrine of subinfeudation being abolished, different grades of raiyati interest will disappear.

**Q. 27.** It was the intention to give protection to all classes of tenants (*Vide* Fifth Report, p. 34 and p. 47 and also Art. VII of Regulation I).

**Q. 30.** (i) Even though any statutory right is conferred on the bargadars the number of bargadars would hardly decrease.

(ii) Increase of bargadars is partly due to the fact that right of transfer conferred by the Amending Act of 1929 has been taken advantage of and the lands sold away to meet the improvident expenses of the raiyats. The result is that they have to take to barga system of cultivation.

(iii) Economic depression has further contributed to it. The Bengal Agricultural Debtors Act is another factor which destroyed the rural credit and the financial stringency coupled with the abolition of landlord's transfer fee will further increase the number of transfers and reduce the raiyats to the position of the bargadars.

**Q. 31.** Less than two acres.

"75 of an acre for Pabna and 1·12 for Bogra" (Survey and Settlement Report for Pabna and Bogra, p. 66).

The majority of bargadars hold land as raiyat and under-raiyats. In Bengal, bargadars are labourers.

**Q. 32.** Right of occupancy should never be extended to them. Only if they cultivate they should be allowed to use the land till the reaping of the harvest.

**Q. 34.** Granting occupancy right to bargadars will throw the bargadars suddenly out of employment as the zamindars and tenure-holders and raiyats will rather keep the land uncultivated than allow such accrual of right on the part of a person who is but a labourer. The result will be that they will be further famished.

**Q. 35.** Half the produce by long-established usage. State should not interfere and further complicate a system which is working satisfactorily for centuries.

**Q. 36.** Wages of agricultural labourers vary from annas 4 to annas 6 a day. The condition of bargadar is better than that of a common labourer (Settlement Report, Pabna and Bogra, p. 71).

**Q. 37.** Right of transfer by the Amending Acts of 1929 and 1938 will prejudicially affect the raiyats. No distinction should be made between the agriculturists and non-agriculturists with regard to the transfer of holdings. That shows that short-sighted and hasty legislation is always bad.

**Q. 39.** Size of many raiyati holdings is uneconomic. Yes. All these factors are tending to further subdivide the holdings.

**Q. 46.** There is no bar to enhancement in the Permanent Settlement Regulation. Regulation VIII of 1793 exempts the istemrardars and dependent talukdars from enhancement of rent (sections 49

and 51) and also the khudkasht raiyats if so agreed in the patta [section 60(2)]. Regulation VIII by section 52 gives the zamindars full freedom to let the remaining lands.....“in whatever manner he may think proper under specific engagements.”

**Q. 47.** *Vide* question 46.

**Q. 48.** The presumption of fixity of rent from uniform payment of rent for 20 years was made in sections 6 and 50 of the Bengal Tenancy Act (*vide* also question 46); (also in Act XI of 1859, section 37).

**Q. 49.** There was no such intention—*vide* question 46. There is no sufficient material available to determine the pargana rate of rent. The only materials available are:—

- (1) Official reports.
- (2) Kanungoes' reports.
- (3) Collection papers of the zamindars filed during 1269 to 1276 before Collectors.

In the settlement report of Pabna, Mr. Macpherson says “Apart from the difficulty of connecting any entry in these papers with the particular cases....., there is no means of knowing whether these returns were complete or correct.....Rates of rents were mentioned but whether they were actually applied in any given instance could not be assured.”.....“The older the paper the less likely is the tenant, who does not know the name of his great grandfather, to be able to trace his predecessor-in-interest (p. 100).”

The rates of rent in Bengal being lower than those in other provinces, grievances of the raiyats, if any, may be adequately removed by—

- (a) abolition of subinfeudation,
- (b) by improving the method of cultivation,
- (c) by the introduction of improved seeds.
- (d) by arranging for the marketing of produce so that adequate price may be had for the goods,
- (e) by diffusion of agricultural knowledge among the cultivators,
- (f) by giving up the policy of enhancement of rent or rack-renting as done now-a-days by Khasmahal Officers.

**Q. 50.** There was no mistake on the part of the Government to provide for enhancement on the ground of rise of the prices of staple food crops so far as raiyats are concerned. It is based on the principle that if prices rise, the zamindar will be entitled to get benefit of it as proprietor of the soil.

The fair enhancement is an incident of proprietary right, provided it is so agreed by the tenant in the patta [*vide* section 62(2) of Regulation VIII of 1793.]

**Q. 51.** In Regulation XIX of 1793 (non-badshahi lakheraj grants), section 8(2), paragraph 2, lays down the reduced rate of assessment on such land paying progressive increase. The assessment is to be regulated by rules prescribed in Regulation VIII of 1793 (*vide* section 50), i.e., according to the general rate of the district.

**Q. 58.** Imposition of any income-tax on agriculture will further affect the cultivators. Rent is to be preferred to income-tax.

Yes. A good deal of men will escape payment of income-tax.

**Q. 59.** *Vide* question 50.

**Q. 60.** Enhancement of rent due to fluvial action is very rare. So virtually the section affects nobody.

**Q. 61.** The enhancement for the rise in prices of staple food crops is based on the principle that if prices rise, the zamindar being the proprietor, is entitled to its benefit.

But the difficulty is that once an enhancement is made, the tenant will hardly go to Court for reduction of rent when the price diminishes. So the rate of increased rent is paid even at the time of reduced price of commodities.

Report on Survey Settlement Operations for 1932-33 shows that—

In Malda enhancement of rent has been 18 per cent.

In Rangpur enhancement is 11 per cent.

In Burdwan and Hooghly enhancement is 23½ per cent.

So this enhancement will affect the cultivators.

The average enhancement in permanently settled area is 15.94 per cent. In Government estates the enhancement is 37.45 per cent. from 1910 to 1935.

In temporarily settled estates, it is at the rate of 12.06 per cent. from 1910 to 1935.

**Q. 63.** If there be a provision for reduction, there should be a provision for enhancement.

There is no necessity of such apprehension from a Court of law.

**Q. 64.** There should be some provision for oppressive rent, e.g., in Government khasmahals.

**Q. 80.** Yes. We agree to the suggestions. Adequate measures should be taken for marketing of produce for getting adequate price for the commodities.

**Q. 83.** Agricultural credit has been ruined. Government should establish land mortgage banks for paying the debts of the agriculturists.

**Q. 86 and 87.** Debt Settlement Board has totally destroyed the agricultural credit. Moneylenders do no more advance to the cultivators. In time of distress, they are suffering and selling their lands and cattle to save themselves. When cattle die, they get no money to buy a pair. So they are selling their lands. It has been found that numerous applications of the cultivators to a generous zamindar for money to buy cattle have been made and that many are of opinion that unless the Government sets up some method to help the agriculturists, all lands will pass out of their hands and they will be compelled to work as mere day-labourers. They cannot buy cattle even when the animals die.

Secondly, the Board is constituted generally of men of doubtful honesty and of no education. So they should be replaced by village munisiffs. Agricultural debts should be cleared from Government banks or land mortgage banks with the power to issue debenture, if possible.

**Q. 83.** Landlords have been deprived of about 36·74 lakhs of rupees of their income by the abolition of the transfer fee.

Value of the land has increased so that the tenants are selling their lands unhindered and in course of a few years they will be landless. That is the effect of hasty legislation.

Remission of rent in the case of diluvion with no compensatory remission in the case of landlords seems to suggest that the policy of the Government is to destroy zamindari system by all means—equitable or inequitable.

In such circumstances the best course is to purchase the landlord's interest by the State under a scheme as laid down above.

### Reply by the 24-Parganas District Bar Association.

**Q. 1.** *Duties and obligations of zamindars.*—Besides the duties enumerated the zamindars had the duty of maintaining peace, policing. They had also obligations to inform the authorities, of bad characters in his elaka, and to supply stores to the army and Government officers and to help Government officials in their duties. These were additional and traditional or customary duties and obligations.

*Rights of tenants.*—Before the Permanent Settlement occupation of land on payment of rent was the only right. That rent was liable to be increased by impositions of cesses. Fixity of rent of tenants is a creation of British statutes. In this view no rights which tenants had, was taken away by the Permanent Settlement rather foundation was laid therein for a more lenient treatment of the tenants.

**Q. 2.** The power to choose his tenants was with the zamindar from before. Of course he could not prevent tenancies descending to heirs of khudkash tenants. In case of transfers his express permission had to be taken.

*User of the land.*—Landlord had the right from before to prevent conversion of one class of land to another. No such rights were conveyed by the Permanent Settlement to zamindars.

**Q. 3.** Landlords made roads, drained wastes at huge expense, excavated tanks, dug wells and also established schools and other charitable institutions. They brought wastes and jungles under cultivation by (*i*) clearing jungles at their expenses, draining wastes and marshes, (*ii*) by offering temporary exemption of rents and progressive rent to tenants, (*iii*) by supplying money and seed to cultivators and paying for their maintenance before they could gather in their crops, (*iv*) by bringing cultivators from elsewhere and settling them on their lands at their expense. That increased activity and industry followed the Permanent Settlement is judicially noticed in the Great Rent Case of 1865.

It is difficult at this date to give positive proof of the part played by the landlords, but having regard to the fact that large capital outlay was necessary to bring wastes and marshes and jungles under cultivation and that the condition of the tenantry was such that they died by the thousands in 1770 owing to the failure of a single crop, and having regard to the fact that much land that was waste at the time of the Permanent Settlement is now under cultivation, it can reasonably be assumed that it was the landlords who furnished the capital for these costly undertakings.

Landlords did not fail to perform the function expected of them at the time of the Permanent Settlement. The revenue demand was

punctually met, this established the finances of the Government. As a class they were the staunchest supporters of the British Government. The landlords and tenants co-operated and helped the progress of the country, a settled condition was evolved out of the unsettled and unsatisfactory state of things prevailing before the Permanent Settlement. Trade internal and external developed.

**Q. 4.** It is not correct to say that zamindars were not proprietors of the soil before the Permanent Settlement.

It is true, however, that they were not the exclusive owners. The king, the zamindar and the raiyat were all proprietors of the soil as each of them was entitled to a certain share of the produce. But supposing this state of things which prevailed in Hindu times had been abrogated—we find that in Muhammadan times—

- (i) the zamindaris were heritable;
- (ii) when zamindars were deposed and settlement made with stranger, they were given portions of land or malikana in money;
- (iii) zamindars' rights were transferable;
- (iv) almost all zamindaris comprised extensive tracts of waste lands. If the State or the cultivators were the only proprietors of the soil then, these waste lands would not have been included in the zamindari settlement.

From the above facts a conclusion can be drawn that zamindars were not merely office holders or collectors of revenue but had an interest in the land.

Moreover, if we go to Hindu time we find that there were numerous petty chiefs under the king and the king himself was subordinate to an emperor.

Revenue settlement of the Moghuls recognized these petty chiefs as zamindars. They formerly maintained paiks and had to supply men for the army. They had the power and did decide petty civil and criminal disputes amongst their tenants. The Bara Bhuiyas of Bengal are a good example of this class. Their descendants are amongst the present day zamindars.

Having regard to the circumstances detailed above the zamindars seem to have been proprietors before the Permanent Settlement. The policy of the British Government has always been against violent or radical changes. If the zamindars were not actual proprietors from before it is unlikely that the British Government in these unsettled times would have acknowledged them as such or that the tenantry and the country at large would have accepted them as proprietor without any objection.

**Q. 5.** Lord Cornwallis in making the decennial settlement permanent was not acting with altruistic motives. He wanted—

- (i) stability of the income from the revenue without reducing the then revenue demand;
- (ii) to end the then unsettled state of the country, and to put it on the road to progress by inducing in the inhabitants a sense of security that they will not be subject to exactions at the pleasure of the Government officials;
- (iii) a body of men who had influence in the country and would support the British rule;
- (iv) to induce the capitalists to invest their capital in land for improvement of agriculture and industry (*vide* preamble to Regulation II of 1793 passed simultaneously with Regulation I of 1793).

By the Permanent Settlement he achieved these objects. Zamindars agreed to the revenue which at that time was nearly 9/10ths of their gross collections in the hope that future improvement will be for their own benefit and will yield them sufficient return for their labour and capital.

Within a few years of the Permanent Settlement many zamindars who had no capital at their command lost their zamindaris by revenue sale.

Capitalists purchased these zamindaris on the faith of the pledge of the Government that the revenue demand will not be increased.

Others stuck to these zamindaris even though they had to find money from other sources for payment of revenue, believing in good faith that if they could improve their properties the increase they might obtain will be solely theirs.

Many of them have sunk huge sums in the land in an effort to drain them or to improve them so long as to make this profitable.

It will be hardly fair to tell them that the pledges given were really not meant to be honoured. It will make the investment of their choice, viz., their zamindaris worthless and destroy their capital.

During the mutiny the zamindars were loyal and helped the British. It would not be a fair return to violate the pledge on the faith of which they had supported the British Government, of course if it be taken to be merely a piece of legislation it has all the incidents of a statute and can be repealed or altered but it is more than a piece of a legislation, it is a solemn declaration of the Ruling Power on the faith of which its subjects have acted and changed their position.

As regards tenants not being parties, tenants are never parties to any revenue settlement of even temporarily settled estates. All that is done is that the assets of the estate, viz., the rents payable by the raiyats are ascertained. This was done before the Permanent Settlement and formed the basis of that settlement. The tenants were not affected and were not intended to be affected by the Permanent Settlement and their status were left open.

It indirectly benefited the tenants as the previous practice of enhancing raiyati rents and then fixing the revenue was put an end for all time.

As regards the Permanent Settlement permanently crippling the resources of the country it has to be noted that the present increase in raiyatwari assets are due to—

- (i) waste lands being cultivated which would never have happened had not the Government inducements to the zamindars. Government of the day was hard put to it to find money for ordinary administration;
- (ii) rise in rents due to rise in price of food crops which was due to increased trade following the Permanent Settlement;
- (iii) danga lands and bagat lands being cultivated with jute. This was due entirely to the rise in price of jute;
- (iv) greater pressure of the population on land the increase being due to peace and prosperity also due to destruction of our industry owing mostly to foreign competition.

Had the revenue demand not been fixed the zamindars and others would not have reclaimed wastes.

There would not have been stabilisation of the Government and society which followed the Permanent Settlement and consequently trade would have suffered and prices would not have risen and there would have been more famines and poverty.

If conditions had continued unsettled and trade dwindled, there would not have been such extensive cultivation of jute.

Nor would the population increase at the rate it has, leading to cultivation of land which formerly lay fallow.

When we look at the present figures of the gross assets, and are struck by the difference we forget that these figures include the rents payable by sub-tenants of the old khudkasht kadeemee raiyats and also the usufruct of khas and nankar lands.

If we take the raiyati figures only the difference will certainly not be so striking because we know that even to-day in some permanently settled estates rates of rent for raiyats are as low as 8 bighas or more per rupee per year.

We also forget that the khudkasht raiyats of the Permanent Settlement have now become or have been recorded as tenure-holders as many of them have let out their lands and have taken to other trades or professions.

One cannot say that the Permanent Settlement crippled the financial resources of the country looking only at the present day agricultural assets, as a great portion of the said assets is due to the Permanent Settlement itself.

Moreover, the increased assets are not altogether untaxed. They pay cesses. They have made for increased prosperity of the country and are indirectly responsible for increase of revenue in other shapes, e.g., customs, postage, stamps, court-fees, income-tax, etc.

**Q. 6. Extension of cultivation.**—Cultivation has extended. The question is who did it?

We find that after the Permanent Settlement many zamindaris were sold. This was because there was not much profit left to the zamindars after paying the revenue.

We also find zamindars letting out mouzas and mahals to patnidars. This was due to the fact that those who had engaged with the Government for revenue had not sufficient capital at their command to bring new areas under cultivation or improve the lands. The patnidars in many cases took lease at a rent which represented the nett realization from tenants.

The condition of the tenantry was not such that they could afford to spend money on improvement. In most cases individual efforts by tenants would not have improved the lands or made it fit for cultivation as any scheme for improvement would embrace a fairly large area beyond the limits of his small holdings.

The improvement and reclamation must have been done by either capitalists who could afford the money or by a combined effort of the tenantry pooling all their resources.

We can dismiss the theory of combination of tenants because of the almost insurmountable difficulty of dividing the area reclaimed equitably amongst the different persons working for reclamation, and also the difficulty of maintaining the works of improvement during the period that must elapse before they yield a return. We have to consider also that the tenantry of a village or locality was not a homogeneous compact body who would be likely to work together for their common good.

We have traditions on the other hand of drainage channels being dug, sluices constructed and embankments put up by the zamindars or patnidars.

Moreover, it was to the interest of the zamindars and patnidars to bring more land under cultivation.

We may therefore conclude that so far as marshes, wastes and jungles have been brought under cultivation it was done by the zamindars and patnidars.

That this is so is also corroborated by the fact that the Government found it necessary to let out Sundarbans in lots to large capitalists, between 1825—1838. If the tenants were clearing jungles and reclaiming wastes at the time, the Government would not have adopted the policy followed in the Sundarbans and as alleged to their loss of revenue.

While this is the position as regards lands which required capital and organization for its improvement, there were other lands, village commons for example which were brought under cultivation. This was due to the pressure of population and the fact that everybody had not enough land for his support, enterprise of tenants was also responsible but to a very small extent as by itself it could only reclaim lands on which large capital expenditure was not necessary. Even here the landlord must have co-operated by exempting the rent for a period and accepting reduced rent for a period.

There are cases in the law books about the reclamation and jungle-bari leases. They shew that landlords were letting out to tenure-holders (not raiyats) jungles and wastes for reclamation which also explains the cause of the birth and intermediate tenures.

One can therefore apportion the increase at least 70 per cent. to the initiative and assistance of the zamindars and 30 per cent. due to increase of population and enterprise of tenants.

**Q. 7.** Rent roll of the permanently settled estates in 1793 is not quite dependable. It is based on returns given by the zamindars, who give figure of their receipts. This included the lands held by dependent talukdars under whom there were raiyats. Moreover, there was not such a systematic and regular survey and settlement as we have now.

Nor can the said figures be compared with the present figure of 12 crores. This 12 crores includes (i) assets of estates permanently settled long after 1793, (ii) assets of chars reformed on old site where rates of rent are very high, (iii) assets of under-raiyats.

For khas lands no assets were calculated at the time of the Permanent Settlement possibly because there was no demand then for those lands. It was due to the improvement subsequently made and the increase in the price of jute and other crops due to good trade conditions induced by the Permanent Settlement that there has grown a demand for such land. Had there been no Permanent Settlement it is doubtful

whether there would have been the present demand for land. Moreover, the computation of assets on the basis of cess revaluation is not fair. These cess revaluations represent the state of things when jute and other crops prices were high, and people are clamouring for a revision of the cess revaluation in most districts.

As to the cause of the increase, enhancement of rent is factor. Enhancement is not usually submitted to without demur. If we take statistics of rent suits and enhancement suits we find that not even per million per cent. of suits are for enhancement suits (in 24-Parganas). No doubt while prices ruled high the zamindar could get enhanced rent after making the land khas but there the arrears of rent he lost represented additional capital outlay by him. As regards the other two points I would refer to answer to question 6 and say that it was mainly due to the efforts of zamindars and patnidars and capitalists.

**Q. 8.** The whole question is what is meant by moderation. If it is meant that zamindars were expected not to be oppressive, it may safely be said that the majority of the zamindars were not oppressive.

There were ample safeguards in the shape of periodical returns required by the Regulations which used to be submitted by zamindars, against arbitrary increase of rent.

Khudkasht raiyats who held from before the Permanent Settlement were entitled to retain possession so long as they paid rent at the pargana rate, those who came after the Permanent Settlement were entitled to get pattas at pargana rates. All this was provided in the regulations of 1793 and subsequent Regulations. *Vide Regulation 44 of 1793, Regulation 7 of 1799.* So far as these tenants were concerned there was therefore no scope for arbitrary increase of rent.

As regards other tenants there has been increase but that was neither arbitrary nor illegal. As to extortion there were certain abwabs, e.g., nazar, on occasion of marriage, sanctioned by long usage, hisabana for getting dakhilas also a customary abwab. There were other fees such as nazar for recognition of transfers, nazar for felling trees, nazar for excavating tanks and erecting pucca buildings. As to the illegal abwabs sanctioned by custom they have been gradually stopped by the legislature.

But we must remember that these abwabs were there from before the Permanent Settlement so the condition of the tenants did not become worse than it was before.

The other fees legally recoverable were also classed with abwabs and there was agitation against them. The Government has yielded to the agitation and has now abolished them.

As regards the general treatment of the tenants, the zamindars so long as they were really secure in their power and influence, executed many works of public utility, founded religious, charitable and educational institutions which benefited the tenants.

As regards realization of rents our experience is that suits are generally not brought before 4 years. If rents are amicably paid interest is generally remitted. The conduct of the zamindars compared with that of the Khas Mahal Officers as to realization of rent is very lenient indeed.

But gradually with the curtailment of the rights, privileges and power of the zamindars a change has come about and the present day zamindars do not feel that they need do anything more than they are legally required to do. The personal touch has disappeared and zamindars have been forced to leave their villages where their ancestors practically ruled, but where they cannot now expect even the courtesy of a nod from the tenants.

The expectation was fulfilled after the Permanent Settlement but there has been a setback and a gradual estrangement between the landlord and the tenant since tenancy legislation was undertaken, and the tenants were taught that their only relation with the landlord is the payment of rent.

**Q. 9.** The extent to which zamindars improved their estate by their industry, enterprise and good management has been detailed in answer to question 6. But it is not always that the zamindars did it. In many cases the tenure-holders and patnidars brought in by zamindars effected the improvement. The improvement that we see round us is not due to the raiyats industry or enterprise to any appreciable extent.

Beyond extension of cultivation, good management and fair treatment of the tenantry and the punctual payment of revenue the Permanent Settlement did not impose on the zamindar any other obligations.

But their status as zamindars carried with it other obligations. Maintaining peace, helping Government officials in their duty and general police duties were amongst such obligations. But with these the tenants were not directly concerned.

Their status imposed on them an obligation to help their tenantry in distress to improve their lot and also to settle dispute amongst them.

While the zamindars lived in the villages it was usual to maintain a sadabrat or open kitchen, to help the tenants in cultivation with money and seeds (of course in the expectation or getting the same back with interest), to help them in distress, to settle their disputes, to help them with money or in kind on occasions of marriage, illness, death and the like.

But by the latter part of the last century the pecuniary condition of the zamindars had grown worse and many of them found it difficult to maintain themselves. They had therefore to send their children for education to towns with a view to their ultimately adopting some profession or trade. This is the genesis of exodus from villages. Partially it may be due to the greater comfort and luxury a town life affords.

Another potent cause of exodus was the treatment meted out to the zamindars by Government officials. If statistics be collected it will be found that many zamindars purchased houses in French Chandarnagore and within the jurisdiction of the Supreme Court in the town of Calcutta to escape persecution by Government officials in the mufassal. Once the virtual rulers of their zamindaris it was difficult for many of them to adopt themselves to the new conditions under which they had to carry out the behests of every jack-in-office conveyed to them possibly by the constable in a way that constables know.

The failure if any to carry out the obligations is due not so much to the zamindars themselves as to the changed conditions.

**Q. 10.** The Permanent Settlement was in the interest of the Government which found it difficult to realize the revenue under the then conditions. It was also in the interest of the tenants who could hope that there would be no further exaction in the shape of imposts by the Government. It led to increased activity and industry as mentioned before.

It has stabilized the revenue system of the country and made the Government revenue safe even in times of famine drought or on an economic unheaval.

It cannot be said that tenants were adversely affected by the Permanent Settlement. If we compare rents of khas mahals and neighbouring zamindari mahals the rents in zamindaris are lower. In any case no rights or privileges were taken away from the tenants and conferred on the zamindars.

**Q. 11. 1st criticism.**—Appropriation of 80 per cent. of the income from the lands to zamindars.

Figure seems to be unwarranted—so far as we know there is no figure available for the profits of land enjoyed by actual cultivators and that enjoyed by the zamindars. We know of cases in which zamindars of 24-Parganas do not get even 10 per cent. as their profits.

Rents payable by the cultivators do not usually exceed half the produce even in case of bhag. The figure also does not take into account that a large body of raiyats are also rent receivers. It does not take into account the capital outlay of the zamindars or the arrears of rent for which lands were made khas and then let out at enhancement rent.

*2nd criticism.*—It has led to subinfeudation. Permanent Settlement regulation itself speaks of dependent talukdars so there was subinfeudation from before.

It is true that permanent tenures were created by zamindars; in many cases it was for getting lands reclaimed. The subinfeudation supposing it is due to the Permanent Settlement has not affected the tenants who were on lands. The incidents of their tenancies remain intact.

*3rd criticism.*—The Permanent Settlement has certainly not let to enhancement of raiyati rents rather it protected the tenant from further enhancement or imposts.

*4th criticism.*—It has not created any new overlordship over actual cultivators which was not there before the Permanent Settlement. Lords of villages were known in Hindu times, *vide* Manu Chap. VII, verse 116, 117. Zamindars were there from very early Moghul times and have continued till now. Before the Permanent Settlement the overlordship was much more real than now. It is nominal only at present.

There is no justification for the criticism that this overlordship is harassing apart from the fact that demand for rent and taxes is always deemed harassing by those who have to pay.

**Q. 12.** The grounds stated in question 11 are not sound and Permanent Settlement cannot be abolished on those grounds.

But conditions are developing due to socialist and communist propaganda which are looked upon with favour by a class of Government officials and ministers, under which the system so long in force will cease to function.

The raiyats have thrown themselves heart and soul into this agitation in the hope that in the new order to come they will not have to pay rents.

So the zamindars if they are wise and if they want to avoid a clash and a class war ought to agree to abolition of Permanent Settlement on receipt of proper compensation.

**Q. 13.** There is no loss to the state of 12 crores unless the state is to appropriate every pie of the rent paid by actual cultivator and also the income of the khas lands.

There has been consideration given in many shapes for the exemption of this amount from tax or revenue. It represents the return on the capital, industry and labour of people other than the Government can have no legitimate claim to it.

The word Permanent Settlement according to present day interpretation means permanent so long as it exists. It is no more permanent than other solemn contracts intended to be observed for all times but torn up at the first opportunity.

It is much better that the zamindari system should be abolished, because and here we speak from our experience of the Sundarbans in 24-Parganas, raiyats of temporarily settled estates are no less hostile to their landlords than the raiyats of permanently settled estates.

The raiyats should come directly under their chosen ministers and try if they can get the rent wholly exempted or partially reduced. The imposition of a tax on agricultural income is not justified on the reasons given in previous answers.

**Q. 14.** Proper compensation calculated at certain times their profit and statutory allowance of 15 per cent. thereon to cover any prospective increase should be given. It ought to be given cash because zamindars after present experience, are not likely to accept bonus which may at some future time be again treated as scraps of paper without consideration.

**Q. 15.** It should be redeemable if paid in bonds the period should be 60 years and interest 5 per cent.

**Q. 16.** Purchase of zamindaris by the state will revolutionize the social structure, the middle class and intelligentsia in Bengal will disappear but that cannot be helped. It is much better that there should be a voluntary change than a revolution after a clash.

**Q. 17.** In the interest of the tenure-holders themselves they should agree to be bought out, otherwise they would be subjected to the same treatment at the hands of the krishaks as the zamindars; to prevent a clash the tenure-holders should all be bought out.

**Q. 18.** In a case before the Settlement Officer, 24-Parganas, in December, 1938, the question cropped up and the Settlement Officer stated that there would be scarcely any extra cost to the Government in managing Sundarbans estates as the local Khas Mahal Officer can very well take up this additional work. One outside the Government Executive cannot very well give an opinion on this.

**Q. 19.** Whether the raiyats would prefer to be directly under the Government if the Government strictly realizes their rents is problematic. But now they are clamouring for the eradication of the zamindari system and it seems that under the delusion that rents would be exempted or reduced they would prefer to be directly under the Government which they imagine is run by krishak projas in Bengal and in their interests.

**Q. 20.** Answer to criticism (ii) of question 11 may kindly be seen.

Subinfeudation was not encouraged by the Permanent Settlement. As zamindars found themselves unable to pay the revenue assessed, and to reclaim wastes, they brought in persons with capital who undertook to pay the fixed jama and also undertook to clear jungles or reclaim waste at their expense.

In our opinion the creation of the permanent tenures has not effected the economic position of raiyats. It might have affected their social position when one of their class became their overlord.

**Q. 21.** If tenures are purchased by the state, the tenure-holders will disappear, this will help in the disappearance of the middle class.

**Q. 22.** The homestead and khas land of the zamindars may be granted rent free to them deducting the capitalized price of rent or revenue from the compensation payable to them or they might be given a permanent right of occupancy in those lands.

All lands which zamindars or tenure-holders cultivate in khas or otherwise enjoy in khas or get cultivated through bargadars should be declared their khas lands.

**Q. 23.** There seem to have been tenants who were not liable to eviction at the will of the landlord from the earliest times. This finds support from the fact that the only liability of a cultivator was the payment of a share of the produce in Hindu times.

Afterwards, during Muhammadan times, the raiyats' position seems to have grown worse. It is curious facts that the system of utbandi-tenancies at will (annual tenancies) is found prevalent near the Muhammadan centres of Government—Murshidabad, Nadia and Jessore.

Occupancy rights as we now have it is certainly the creature of British legislation. They have acquired many new rights and privileges under the British Rule.

**Q. 24.** The Hindu jurists say that the field is his who has cleared it. The king appropriates a portion of the produce because he protects the cultivator and he must bear a proportion of the sin of the cultivator if he does not protect. The above doctrine merely secured to the cultivator the right to occupy. In India squatting creates tenancy but that cannot import proprietorship of the soil. In fact the doctrine of escheat well known in Hindu policy cannot be reconciled with proprietorship of the cultivators.

**Q. 25.** If occupancy rights are a development of the rights of the actual occupier of land as in our opinion it is, it must be confined to actual cultivators and should not be extended to non-cultivators. We would go further and say that on ceasing to cultivate or to occupy occupancy rights should determine.

**Q. 26.** Raiyats who have sublet entire holdings should lose their rights of occupancy.

Those who have partly sublet may be allowed to retain occupancy rights only—

(i) If from disease, minority, female succession or such like cause they have sublet.

(ii) In other cases if they have not sublet the entire portion of arable land, and maintain plough and cattle themselves.

**Q. 27.** The question of non-agricultural tenants was not before the framers of the Permanent Settlement Regulation at all. The main object was to improve the condition of agriculture and extend cultivation.

However on equitable consideration it seems that people who have taken settlement of land for the purpose of constructing their own homesteads or factories on other lands and have occupied the land for 12 years continuously should be protected and given occupancy rights.

**Q. 28.** There is no reason why occupancy rights should persist in lands converted to other use except when homesteads are erected thereon or factories are built. The surely which it was the policy of the legislature to give the cultivators can be equitably claimed by other bona fide permanent residents and traders of village or town.

But there seems to be no justification for levying an additional tax on them. If rent be a proportion of the produce of the land, the assessment is already being paid for the same and no occasion has arisen for imposition of a fresh tax specially when income-tax is paid.

If it is argued that the land is now fetching more the reply would be “Did the Government impose additional tax when lands were sown with valuable crops, e.g., indigo, tea, sugarcane, jute?” The answer must be “No”—, so there is no case for an additional tax.

**Q. 28.** The number of bargadars are increasing of late years in the 24-Parganas Sundarbans where rents are above Rs. 6 an acre. In the permanently settled areas where rents are much lower holdings are seldom made khas, so there is no occasion for increase.

From experience in the Sundarbans it appears that so long as prices ruled high tenants punctually paid rent and were well-to-do. There was demand for land. But since about 1926-27 prices began to fall and cultivators are unable to keep their holdings at rents of Rs. 6 per acre or more. Increasingly large quantities are being made khas and settled by the landlords with bargadars.

There would have been a general reduction of rents of the cultivating raiyats in the Sundarbans but the revenue has been settled on the

basis of raiyati rents being Rs. 6 and over. A commission has been granted to the Sundarbans lottards varying from 35 per cent. of the raiyati assets in case of 40 years, leases to 66 per cent. in case of 99 years' leases. If rent is now reduced by the lessee in many cases he will not be able to meet the revenue and cesses.

If the Government had exerted itself to maintain prices of food crops at a remunerative level, given the raiyats marketing and transport facilities, arranged for warehousing crops and advances to raiyats against crops brought in, conditions would have been very much better and then there would not have been this agitation.

**Q. 30.** Cause (i)—Not at all correct. Giving statutory rights to bargadars would not stop their increase.

Cause (ii)—This is partially the cause.

Cause (iii)—Voluntary and involuntary sales have been frequent owing to the raiyats being unable to pay rents, and other debts, due to uneconomic prices of crops. There have been pestilence amongst their cattle to prevent which no adequate measures have been ever taken. They purchased lands by borrowing when prices were high. They borrowed money for financial, civil and criminal litigation. Of late years there has been a great increase in sexual offences, and this has led to increase of indebtedness of the raiyats. Instead of checking this wave of immorality and their spendthrift speculative propensities the authorities have punished the landlords and money-lenders by passing penal and confiscatory legislations. The result has been destruction of rural credit. Already tales are coming in as to how for a few rupees necessary for treating a raiyat's son for cholera he had to sell a portion of his holding because no money-lender would advance the money for fear of Bengal Agricultural Debtors Act.

**Q. 31.** The area varies in different localities. In Sundarbans, etc., area is the acreage that can be ploughed by a man having one plough and two oxen, i.e., about 15 bighas. The majority of the bargadars also hold raiyati lands at money rents.

**Q. 32.** Barga system is really a labour contract. In many cases the seeds and other expenses are supplied by the zamindars.

The lands they cultivate are in many cases lands of raiyats or tenure-holders, who cannot do it themselves because of minority, incapacity, sex, religion or other disabilities.

They also cultivate the khas and private lands of proprietors.

For the above reason no occupancy rights should be given to the bargadars.

As regards protection we do not know that any case has been made out that they want protection. From experience we can say that it is the landlord who requires protection from his bargadars.

The harvest is reaped by the bargadar and usually stored in the landlord's khamar whence after threshing and measuring the bargadar takes away his share.

An agitation has been engineered that the bargadars should be free to take away the crops to a place of his choice. This agitation forgets that the crops are the landlords and the bargadars are to get their wages in kind.

Looking to statistics of cases which give a fair indication of the state of things in the country it will be found that while there are many suits for recovery of the share of produce due to the landlords there are practically no suits for recovery of wages or the share due to the bargadar.

If however the Government apprehended that the landlords cheat the bargadars of their dues, some machinery may be set up which will ensure a fair division of the crops and also to the reaping and harvesting of the crops.

**Q. 33.** Barga system is economically sound. Like all systems it may be abused and employed to prevent *bona fide* cultivators from acquiring rights in land. The quantity of lands that has to be retained khas varies according to localities and the system of land tenure.

A landowner having no other income and living in the mufassal will require a greater amount of khas land for the support of himself and his family.

One engaged in a profession and living away will require lesser amount of khas land than the former.

A lessee in the Sundarbans must have a considerable quantity of khas lands if he is expected to meet his obligations.

The requirement of a zamindar in permanently settled areas where embankments have not to be maintained and tenants have not to be given advance of seed and paddy for their maintenance would be much less.

The bargadar has to pay only a share of the produce grown—he does not pay when there are no crops, so there is no hardship.

**Q. 34.** Barga being a contract from labour the effect of giving occupancy rights to the bargadars would be force unsuitable and unwanted labourers on the employer, moreover, it would not induce him to work diligently so that both he and his employer may benefit.

The fear that he may be changed and thus lose a source of employment and profit makes him exert his utmost. If this fear be removed he would naturally not take as much care of lands held in barga as he would otherwise do.

If occupancy rights are given not only will landlords try to keep lands in khas cultivation but a portion of the lands may be allowed to remain fallow. A large number of men will undoubtedly be thrown out of employment.

**Q. 35.** The proportion is always fixed by custom. It varies from  $\frac{1}{2}$  to  $\frac{1}{3}$ rd of the produce payable to the bargadar.

In case of valuable crops like sugarcane, betel and the like a much smaller proportion may possibly be equitable.

If the Legislature recognizes local conditions and the value of different crops a maximum may be fixed, but they should always recognize the customary proportions prevalent in the locality.

**Q. 36.** Wages of agricultural labourers vary according to circumstances. In years of distress it is as low as 2 annas a day. In normal years 4 annas to 6 annas—sometimes more when all the labourers are employed, e.g., in transplantation and harvest seasons.

Taking the average yield of paddy to be 6 maunds per standard bigha and the price 10 rupees in 24-Parganas the bargadar gets 5 rupees for about 15 days' labour at the most. The wages do not seem to compare unfavourably with wages of agricultural labour.

**Q. 37.** Unrestricted rights of transfer has certainly led to the passing of lands into the hands of non-agriculturists—what the proportion may be it is not easy to tell.

The further facilities given by the Act of 1938 has increased this tendency.

In fact the combined effect of the Agricultural Debtors Act and the amendments is to make the raiyats sell their holdings wholly or partially whenever they have any necessity.

It is prejudicial to the interest of the cultivating raiyats as a whole, In our opinion the former restriction on the right of transfer should be restored.

**Q. 38.** The answer depends on what is meant by an economic holding.

If the meaning be that the area must be sufficient to maintain a normal family, a normal family of 4 would require about 36 to 40 maunds of rice, i.e., 60 maunds of paddy for the food. If 20 rupees more be required for clothes and other necessaries another 12 maunds

of paddy will be required. There the area should be sufficient to yield 72 maunds of paddy in half share the other half should be kept apart for rent, cost of cultivation, etc.

Taking an average yield of 6 maunds per bigha the area comes to 24 bighas.

**Q. 39.** Judging in the light of the answers to the above question most holdings are uneconomic.

The law of inheritance, statutory rights of transfer and increase of population are all tending to the subdivision and fragmentation of the holdings.

To prevent fragmentation the laws of inheritance have to be changed. But no such legislation has any chance of being passed.

**Q. 40.** Consolidation of holdings is certainly desirable. It cannot be brought about without interference with the laws of inheritance. Hindu and Muhammadans and the present rights of the holders. This can be done by legislation only.

**Q. 41.** Special facilities even if granted to consolidate his holdings spread over several plots in different places, will not make the average holding economic, acreage held by a tenant not being more than 6 bighas at present.

Giving special facilities for exchange would however go some way in consolidation of holdings.

**Q. 42.** Accumulation of large areas in the hands of cultivators with small capital is not desirable. It can be checked by fixing a maximum area which can be held by one person, or by making holdings non-transferable as before.

The maximum should be fixed at 100 bighas.

**Q. 43.** Coparcenary by itself is not detrimental to good cultivation. It is detrimental inasmuch as it leads to subdivision and may ultimately reduce area of the holdings to a figure where it is not economic.

As stated before this evil cannot be minimized without a change in the law of inheritance. If a right be given to the major co-sharer to buy up the share of others it might prevent subdivision.

**Q. 44.** Nothing can be done under the present laws.

**Q. 45.** If by collection is meant joint collection of rents we do not think it is desirable.

**Q. 46.** If we refer to the other Regulation passed in 1793, e.g., Regulation 44, and shortly thereafter, e.g., Regulation 7 of 1709, we find that purchasers at revenue sale are entitled to enhance the rents of certain classes of raiyats up to the pargana rate.

Thus it seems reasonable to conclude that one of the methods would be to enhance the rents of raiyats whose rents were enhanceable, viz., that of paikasht raiyats and that of khudkasht raiyats who had not completed 12 years' possession.

Those who so contend forget that the tenants had no staying however in 1793, that in course of time many raiyati holdings must have been made khas and then let out at increased rent, the increase being due to the additional capital sunk by the landlord in the shape of loss of areas arrears, and in the shape of improvements made since the Permanent Settlement.

**Q. 47.** No. See answer to the last question. As regards tenants who would come after, it was obvious that they should pay the rates in force at the dates of their settlements. No indication can be found that the pargana rates in force in 1793 were to be kept fixed and unalterable.

If that were the intention we would have found some traces of it in the legislation coming after the Permanent Settlement we find no such trace but contrary indications in Acts X and XI of 1859 and Act VIII of 1885.

**Q. 48.** No answer—as we do not so believe.

**Q. 49.** There is no case for reducing the rents to the level of 1793. Trade and prosperity which were not there in 1793 has come to the country. Improvements in transport facilities, have been made, marshes drained, jungles cut. All this have had the effect on the economic life of the country. There is no reason why the tenants should have the 1793 rents restored either prospectively or retrospectively.

During the high prices rents soared to a high level. The zamindars are not only the people who took advantage of them.

Where rents are above a certain proportion of the yield they might be reduced.

To simplify matters we should take an average outturn and average price and come to a money figure.

It will certainly be difficult if not impossible to ascertain 1793 rents and 1793 tenancies.

**Q. 50.** In view of previous answer does not arise.

**Q. 51.** It was not the intention of the drawers of the Permanent Settlement Regulation that all future settlement of waste lands should be at pargana rate, as no such indication is found and as the said regulation assured to the zamindars the increase that may be due to their own industry and good management. If there was such an intention it would have limited the amount of increase that might be made.

**Q. 52.** The principle of determining fair and equitable rents in Bengal cannot be fixed on any one basis.

It will depend on the size, suitability and situation of the land and the pressure on land in that locality, the productivity and other local conditions.

As regards (i)—It does not take into account the fact that in the yield of land just paying the cost of cultivation, the industry of the cultivator is a factor. In fact the unearned increment of any particular plot of land is very difficult to ascertain.

As regards (ii)—How can a small holding, say of 2 bighas, yield any rent after paying cost of cultivation and food of the cultivator and his family.

As regards (iii)—This seems to be the only safe universal principle that may be adopted. The criticism that poorer land pays the higher rent under the system does not seem to be justified. The criticism should be rather be that a rich and fertile field would yield much more as profit to the tenant over and above his costs than the poor land would.

As regards (iv)—Market value fluctuates and in Bengal lands worth Rs. 200 per bigha are now selling at Rs. 25 per bigha, at times no purchaser can be found. It does not follow that no rents are payable therefor.

As regards (v)—Customary rates adjusted according to change in price of a staple product would be a cumbrous procedure and it would be difficult to ascertain the customary rates, for in most cases there is not one customary rate.

As regards (vi)—Competition leads not to a fair rent but a competitive rent.

**Q. 53.** The present rents are fixed mostly by the rates usually paid for the class of the lands, and competition. It is true that rates for similar lands vary in every village. The variation is due to the conditions prevailing at the different times when tenants took settlement.

**Q. 54.** We have no such experience. But if it is the case anywhere, possibly increased rent is due to the tenants agreeing because of remission of arrears or the like or because of their having taken direct settlement from the landlord of holdings made khas while their richer brethren retain the old rents.

The factors are (i) the size of the holding, (ii) the situation, (iii) the reputation of the landlord, (iv) the prosperity or otherwise of the country at the time of settlement, (v) the purpose for which the land would be used, (vi) nature of crops for which the land is suitable.

**Q. 55.** If a proportion of the produce be fixed as rent, then only there may be an uniform basis.

It is not so much a new record-of-rights that is necessary as record-of-rights on a new basis, viz., annual yield of each field.

**Q. 56.** One-fifth. Rents above Rs. 6 per acre are at present almost non-realizable. Each bigha yields Rs. 10 in 24-Parganas, Rs. 2 is 1/5th of the same, hence I would suggest 1/5th.

**Q. 57.** It should be re-examined from time to time. To prevent too frequent change and disturbance the statutory period as in the Bengal Tenancy Act of 15 years may be fixed.

**Q. 58.** There would be no advantage and we agree with the criticism of the method contained in the question itself.

**Q. 59.** In that it has not taken into consideration all the factors that go towards fixing of rents enumerated in answer to question 54; the principles and procedure of the Bengal Tenancy Act are defective. It has formulated an artificial rule for finding out a prevailing rate therein also; it is defective. The size of the holding is never taken into consideration. It is also defective because it confines attention only to the price of staple food crops and not to the price of other crops grown on the lands.

**Q. 60.** Enhancement due to fluvial action is justified on the theory that it is the landlord proprietor's land which is improved.

It would not be fair to secure all the benefit of fluvial action to tenant.

**Q. 61.** Enhancement on the ground of rise in prices tends to keep the prices up and so from an economic point of view it is not sound.

**Q. 62.** If the theory of rents be that it is a share of the produce there can be no objection to applying the principle also to tenants who require the whole crops for their consumption.

**Q. 63.** If there were a provision for reduction on the ground of prevailing rates there can be nothing to object to the prevailing rate as a ground for enhancement.

It is likely that sufficient consideration may not be given to the tenants' improvements and payment of advance rent of which there is no record.

**Q. 64.** If the parties are at arm's length, contracts should not be interfered with at all.

But if it is desired that rents which were raised or fixed in times when prices ruled high should be reduced a provision of law to that effect may be introduced.

**Q. 65.** (a) Section 104 (h) limits and restricts the right of suits. Any one considering himself aggrieved in any way should have a right of suit and redress in the Civil Courts.

The absence of a provision making the settlement of fair rent by the Revenue Officer binding in all cases and all parties, is another defect. Cases are to be found in the books where revenue has been assessed on the basis of certain rents payable by tenure-holders or other tenants but it was ultimately decided by Civil Courts that the rent so settled was not recoverable.

The amendment of sections 191 and 192 of the Bengal Tenancy Act in 1928 has further confused matters. Section 191 and section 104 and section 75 (a) should be made consistent and if the Civil Court decides against the fair rents settled by the revenue officers there should be a statutory provision to alter the revenue assessed accordingly.

Definite rules should be laid down for working out fair rents so that it may be matter of calculation merely.

There are no rules for settling rents of non-agricultural tenancies.

(b) The defects are—

- (i) No provision for settlement of fair rents of non-agricultural tenants.
- (ii) Absence of simple and definite rules which can be easily applied and fair rent worked out.
- (iii) Some provision similar to having a table of rules drawn up as in the Part II should be inserted.
- (iv) Maximum and minimum rents at a certain proportion of the yield of the land should be fixed.
- (v) The superior landlord should be empowered to have fair rent settled for all grades of tenants under him, otherwise in a mahal where the rents are low and the tenure-holders intervening it is not possible to level up the rents. This works a hardship specially in cases where the landlord has affected improvements of a mahal by enhancement, irrigation, etc.

As regards procedure for settlement of rents, the enquiry and trial should be by the Civil Courts. The revenue officers and kanungoes are not trained for shifting owing to evidence and are not properly equipped for constructing leases and title-deeds of parties.

**Q. 66.** We do not know.

**Q. 67.** Revisional settlement are generally made with the object of enhancing revenue.

**Q. 68.** It is not the case of any particular estate. All Sundarbans estates were re-settled and the enhancements were 700 to 1,500 per cent. Many zamindars refused to take re-settlement and the estates of many others were sold. Then on a representation from the lessees the Government revised their policy and resolved to leave a greater margin of profit to the lessees.

**Q. 69.** It was undoubtedly a mistake and it made the conditions of these tenants worse. Recently this practice of enhancing raiyati rents has been stopped in 24-Parganas, but enhancement of rents of tenure-holders continues.

**Q. 70.** See answer to question 53. The competition for the land, facilities for marketing, proximity of towns and mills are factors which cause this dissimilarity.

**Q. 71.** It is a fact that no remission of revenue is given to zamindars of permanently settled estates. Even in temporarily settled estates no remission is given on application by lessees, assuring the Government that they would give a similar remission to the tenants. Such applications were made in 1342 B.S. when there was failure of crops and famine in Sundarbans, 24-Parganas; but not entertained.

In khasmehals also remissions are not usually given on occasions of distress except in cases when failure of crops is due to the acts of neglect or remission on the part of the Government in maintaining bunds, etc.

The reason seems to be that no Collector wants to move the higher authorities for remitting the revenue demand. Possibly failure to collect revenue is deemed prejudicial to his chance of promotion and preferment.

Rules should leave it to the discretion of the Collector and these rules should be so amended as to make remission follow automatically in definite proportions if there be a certificate of distress or famine.

**Q. 72.** Average yield of paddy in the Sundarbans is about 6 maunds, of other crops we cannot say.

**Q. 73.** If we take figures for khas lands we find that the yield is decreasing. The reason seems to be that we do not and in many cases cannot allow the soil to recoup either by letting it lie fallow for some time, or by manuring it.

The Government has scarcely taken any steps to improve the fertility of the soil or for distribution of manures and seeds.

**Q. 74.** Very little advantage has been taken of the acts in question.

The reason for these Acts being generally availed of is the poverty of the people and inability to pay their share of the tax that must inevitably result.

Another reason seems to be the failure of the works done under the Sanitary Drainage Act and the Canals Act to give relief.

These Acts seem to have been the efforts of superior officers to improve local conditions, if on the other hand the proposals for improvement and details are settled by the tenants or with their consent and approval these Acts would have been in greater favour.

**Q. 75.** If the proportion spent on establishment rents, furniture, stationery, printing, etc., be compared with that spent on agriculture itself it will be seen that no greater success could be possible in the Government effort.

Criticism to the above effect was responsible for the diminished grants. We know that Frasergange was attempted to be colonized by Government efforts, the result was dismal failure. Ultimately Government had to induce.

**Q. 76.** Salami is realized by the Government in khasmahal, and also in settling waste lands in the Sundarbans.

The practice is an old one.

So far as we know it has never been utilized in improving the lands.

**Q. 77.** General policy of the Government has been since after the war to get more revenue. This set an example to the landlords and Government lessees and was certainly responsible for ultimate pressure on the tenants for more rents.

Everywhere there has been a race for getting more money. Those who could not survive have suffered and this has led to the uneconomic condition of the tenants.

As to the land system, meaning thereby the zamindari system, it does not seem to be responsible for the condition of the raiyats, for we do not find the condition of raiyats any better in the khasmahals.

The modification one would suggest is that Government should not look to land and rents for more revenue unless the Government has carried out real improvement works, e.g., irrigation, etc. It should not be allowed to exceed a certain level.

**Q. 78.** It depends on the size of the average holdings. If it be 1·9 acres, i.e., 6 bighas the yield is 36 maunds of paddy, price Rs. 54, cost of cultivation is on an average Rs. 3 per bigha, i.e., Rs. 18, leaving him an income of Rs. 36 per annum, i.e., Rs. 3 a month or anna 1·6 per day.

We do not know of any statistics of the employment or unemployment of the population in Bengal.

From the fact that all persons of a village cannot find employment in the village it is very difficult to estimate the income of a cultivator from other sources.

The following occupations are usually taken up. Day labour in earthwork or the like, breeding goats, poultry, farming, fishery, plying carts or boats.

The additional income would not however exceed Rs. 15 a year, say 9 pies per day.

The percentage of raiyats who can maintain themselves and their family on their income would depend upon the proposition of economic holdings to the number of holdings with some allowance say  $\frac{1}{3}$ rd of the figure added the allowance being due to the number of persons who supplement their income from other sources.

**Q. 79.** It is not satisfactory. By the time the records are published it has ceased to represent the state of things correctly.

Unless change of possession be made dependent on records being corrected or notice being given to the authorities it is impossible to maintain a correct record.

In Bengal the system of United Provinces will not work unless there is legal compulsion to notify changes in possession and an officer appointed to appraise crops of each field.

**Q. 80.** In addition to the means suggested the following may also be suggested :—

- (i) Checking animal and vegetable enemies to the staple crops and fruit and vegetables grown.
- (ii) Giving them practical training in scientific agriculture.
- (iii) Better marketing and transport facilities enabling them to get full value of their crops.
- (iv) Advancing loans by the State banks to the cultivators at low rates of interest and arranging for realization from crops, this will prevent sale at low prices.

**Q. 81.** Pressure of population is one of the many reasons. It cannot be the main reason. On comparison of the Hindu and Muhammadan cultivating families we do not find that the Muhammadan families who are more prolific are any worse than their Hindu neighbours. If there is any difference they are a little better off. Increase in the number of adult or semi-adult males in a cultivator's family is always welcome.

Regarding surplus population it is difficult to arrive at a figure. If we confine ourselves to land and agriculture alone we can get the figures in the following way. Every six bighas or two acres support one cultivator and every eight acres support one agricultural labourer.

Calculating thus we get it that more than half the population of Bengal is really surplus.

But this does not take into account, the industries and other professions—taking everything into account there still is a huge surplus population for whom employment must be found if revolution is to be averted.

**Q. 82.** Other means of livelihood and employment must be found for the people.

Before the British established themselves in the country, weaving was one of the prosperous cottage industries. With the growth of British power weaving with the allied industries of dyeing, cotton-growing, etc., dwindled and have now ceased to exist.

To revive cottage industries in modern times the one pre-requisite is the supply of cheap power. The Government should utilize the natural reserve power, e.g., water power, coal, gas, etc., for supplying cheap power all over the province.

Starting large industries will also help by offering employment and preventing drain. The motor car manufacturing industry can be given as an instance. The Government should take steps for starting factories for the manufacturing finished goods in the country.

It is idle to say that this will disturb the balance of trade and therefore should not be advocated. The net result will be stoppage of drain from the country and make itself sufficient.

**Q. 83.** There is no efficient organisation either Government or private for giving agricultural credit.

Banks and warehouses are required in every village. When the rate of interest in the Presidency banks varies from 2 to 3 per cent. there is no reason why banks advancing loans at 6 per cent. to agriculturists in the mafassal should not be a success.

**Q. 84.** From experience in the Sundarbans loans it is certainly not the case that 25 per cent. of the gross produce goes as interest. 25 per cent. is the usual rate and the principle is the amount borrowed for seeds and for 3 to 4 months' maintenance, so 25 per cent. of the gross produce can't be spent on interest.

Of course in parts of the country where the majority of the population have a criminal tendency they borrow to meet the costs of litigation and necessarily their borrowing has no relation to the gross produce.

Unless some means can be found to stop borrowing the drain will always be there. The percentage may be lowered by legislation, but unless all debts are wiped off every 4 or 5 years no lasting improvement in their condition can be expected.

**Q. 85.** The co-operative credit societies have not succeeded in tackling the credit problem of the agriculturists.

Monies taken by the agriculturists have mostly been locked up and become unrealizable and the banks find themselves in difficulties.

The rates charged are as high as 15 per cent. in some cases.

They have not appreciably benefited the agriculturists to because no co-operative banks had the requisite capital and many of them have had to go into liquidation.

As to the latter part of the question we have no information.

**Q. 86.** Debt Settlement Boards have been able to destroy rural credit in the country. The Bengal and Assam Lawyers Association have made detailed proposals for amendment and also urged the repeal of the Act.

**Q. 87.** The suggestions if accepted would be a move in the right direction.

**Q. 88.** In 24-Parganas Land Mortgage Banks have not been established to our knowledge.

**Q. 89.** With the abolition of certificate procedure (facilities which were granted only to a limited few) there is no machinery for prompt realization of rents by the landlords.

Most of the rent suits are decided *ex parte*, i.e., there is no contest in nearly 90 per cent. of the cases. Yet the tenant is saddled with court fees and the landlord subjected to a dilatory process for realizing rents.

The landlord has not only to pay court fees but various other legal and illegal fees most of which are not recoverable.

One obvious improvement would be that the crops must be harvested and kept in custody of the landlords charged with the payment of rents.

No court fees should be levied in rent suits unless they are contested and no leave should be ordinarily be given to defend. There should be power to grant instalments to tenants in proper cases.

The sale procedure should be simplified and expedited. Penalties should be provided by law against tenants who make false pleas of payment.

**Q. 90.** Recovery of rents by certificate procedure does not seem to be objectionable. As to speedy realisation, certificate procedure is best adopted.

It is a glaring anomaly that the khasmahals having only about 70 lakhs to collect require a special procedure for the purpose and the

Civil Courts are thought insufficient even though their estates are not to be sold away under the Sunset Law, while the zamindars with about 14 crores to collect and with the sword of the Sunset Law over their heads are expected to survive through the processes of the Civil Court.

**Q. 91.** The Regulations not only enact but give reasons and are prolix. It is possible to re-enact the provisions in a more up-to-date and simple form. A simpler Act will in all cases be welcome.

**Q. 92.** The Acts which operate most harshly on landlords are Act XI of 1859, the Regulation VII of 1822 and Act IX of 1847 and the present amendments to the Bengal Tenancy Act. The Embankment Act, the Cess Act, the Primary Education Act and the Sanitary Drainage Act operate harshly on the landlord because they make the landlord and his estate responsible for realization of these taxes although the tenants' portion may remain unpaid.

The dues under these Acts should be realized directly from the tenants. Provision should be made for allowing landlords to deposit sale money after a revenue sale similar to O. 21, R. 89 of the Code of Civil Procedure.

The Act which operates harshly on the tenants is Regulation VIII of 1819 in demanding security for recognition of transfer.

**Q. 93.** The economic effect of the amendment of 1928 on the tenant is that by making transfers easy the tenants are gradually losing their property.

The landlords cannot choose their tenants and in some cases it has happened that tenants' transferees are richer or more influential people than the landlords and it is difficult to realise rents or get agricultural labour.

The landlords have also lost their nazar, the income to the landlords from this source is gone, i.e., at least 10 per cent. of their total income is destroyed.

#### **Oral evidence of the representatives of the 24-Parganas District Bar Association on 16th March 1939.**

##### **PRESENT ON BEHALF OF THE ASSOCIATION :**

- (1) Mr. Phanindra Nath Brahma.
- (2) Mr. Srish Chandra Haldar.
- (3) Mr. Sashindra Kumar Ray Chowdhury.

In reply to the Chairman, Mr. Brahma said that legislation has not altogether succeeded in stopping abwabs but he thought that they

are paid more for accommodation to the tenants and as a means of avoiding insistence on regular payment of rent. Abwabs go partly to the landlords' agents but sometimes to landlords themselves. In his own case he has a tenure, the rent of which is Rs. 700 and odd, and the cess is Rs. 170. He has paid an annual abwab of Rs. 10 from before the death of his father 50 years ago and has never objected to such payment. By paying this abwab he avoids the payment of interest on his rent, and he said that if he were compelled to pay his rent quarterly he would certainly refuse to pay the abwab. It is not correct to say that tenants pay almost as much abwab as rent. Normally abwabs do not exceed 1 per cent. of the rent.

The Chairman asked whether under present conditions the existing land system is likely to survive. Mr. Brahma replied that a state of affairs is developing where the landlords can do very little. At the time of the Permanent Settlement only one-third of the province, or two-thirds, according to different authorities, was under cultivation. The waste and jungle areas were reclaimed by capitalists, i.e., landlords and tenure-holders. Tenancy legislation has taken away the landlords' incentive. They do not carry out improvements because it is uncertain whether they will get a return on the capital they might invest and because rents cannot now be enhanced. Tenancy legislation has greatly reduced the landlords' power and their position is no longer one which commands respect.

The level of rents in the Sunderbans is higher than in the rest of the district because the land is more fertile. There is less likelihood of drought owing to the embankments and little risk of floods, because excess water can be drained away by sluice gates. He considered the present rent reasonable. He himself pays at Rs. 6 an acre for land in the Sunderbans. Under-raiyat took settlement at Rs. 6 to Rs. 8 a bigha at the time when prices were high but nowadays they are not willing to pay more than Rs. 3 a bigha. Bargadars invariably pay half the crop. Their share varies with the outturn. This year there has been a bumper crop. He considered the barga system sound. In his own case he supplies seeds to his bargadars and he said it is unusual for bargadars to supply seeds. He also supplies cattle and plough on terms to such bargadars as require them. He agreed that bargadars pay more than under-raiyats but said that when land is sub-let on cash rent salami is also paid whereas bargadars do not have to pay salami.

In reply to Khan Bahadur A. Momin, he said that Mr. S. K. Ray Chowdhury is a landlord. He himself is a tenure-holder and Mr. Haldar has no connection with the land. The 24-Parganas Bar Association does not represent any particular class. He did not agree that the Association's reply indicated any bitterness against the raiyats and pointed out that the legal profession depends largely upon the prosperity of the raiyats. He did not agree that the landlords have

now lost their utility : he would rather say that their power have been curtailed. Landlords effect improvements on khas lands. He mentioned that in his case he had fenced a small area at a cost of Rs. 20 or Rs. 25 and a cultivator had immediately asked for bhag settlement which brought in Rs. 12 or Rs. 13 in the first year. Other landlords in the 24-Parganas have made improvements on their khas lands. Naturally the landlords expect a return, but the tenants are also benefited. He did not agree that the krishak agitation cannot be stopped. The number of raiyats who have joined the movement is small and they have joined it because of the economic depression. He agreed that the movement might be described as a class movement. He agreed that the Bengal Agricultural Debtors Act has killed all agricultural credit. It is not impossible that the present position of the zamindars may improve. An improvement in the tenants' condition will lead to an improvement in the landlords' condition.

He agreed that zamindari as an investment has become unpopular. Formerly zamindaris sold for 20 to 25 times the net profit: nowadays the price would be 10 to 12 times. (Mr. Haldar said it would be 16 times.)

The great majority of civil suits between landlords and tenants are for arrears of rent. Mr. Brahma showed from Government statistics that in 1937 there were 4,68 lakhs of rent suits representing 96.7 per cent. of the total number of cases. Only 3 per cent. of the cases were under other sections of the Bengal Tenancy Act. If the landlords and tenure-holders are bought out by Government he thought that the number of civil suits would increase unless certificate procedure is restored; but he agreed that there will be decrease of litigation between tenant and tenant. From the point of view of the Bar Association rent suits are not as important as title suits because in most cases rent suits are *ex parte*. The Bar would therefore be affected by decrease in litigation resulting from the abolition of the Permanent Settlement.

As regards his own tenure and the payment of abwabs to his landlord, he said that his landlord would not sue him unless three years' arrears accrue. He did not pay any abwabs like toluri but gave something like parbani to the landlords' officers. He did not agree that the depressed classes and Muhammadan tenants probably pay more than he himself does in abwabs.

In reply to the Maharajadhiraja Bahadur of Burdwan, he explained as regards the reply to question 7 that the figures on which the Permanent Settlement was based were the assets of raiyats, and not of their under-tenants. The assets were about Rs. 3 crores on which the assessment was 90 per cent. At that time the value of paddy was about 8 annas a maund so that in terms of produce the assets to-day would be Rs. 9 crores if the value of paddy is taken at Rs. 1.8 a maund.

Cultivation has extended greatly since the Permanent Settlement and the area now cultivated must be double or treble that under cultivation at the Permanent Settlement. In terms of produce therefore rent is actually lower than what it was at the Permanent Settlement. By saying in the reply that the rent roll is not "quite dependable" he meant that the above considerations had not been included.

He said realization of abwabs is almost universal in his own district of Khulna and abwabs are generally paid by the tenants for some form of accommodation from their landlords. He thought that the same is true for 24-Parganas.

Explaining the doctrine of escheat to Dr. R. K. Mukerji in the reply to question 24, he said if a mokararidar dies his property goes to the Crown whereas if an occupany raiyat dies his property goes to the landlord. The tenants had no proprietary rights in the soil prior to the Dewani and certainly had none after the Permanent Settlement. Continuing to the Maharajadhiraja Bahadur of Burdwan he agreed that revenue free property was not included in the assets of the Permanent Settlement. Areas of less than 100 bighas if resumed went to the zamindars and areas of 100 bighas and more to Government.

He agreed that if a zamindar were to offer his estate voluntarily for a sale 10 times the net profits might be a fair price at the present time but it would be an entirely different matter if Government were to acquire all zamindaris. For forced acquisitions 20 times the net profits should be paid. Although the price of zamindari property has gone down, the causes are of a temporary nature and it is still possible for a zamindar to improve his position. He considered that State purchase would be a bad investment for Government. Government would place itself in an awkward position and would be subjected to political pressure from the krishak movement. He mentioned cases where Government had purchased estates for small amounts at revenue sales and had failed to manage them. It had settled the property in ijara, and subsequently had resettled it permanently. Government securities have fallen as low as Rs. 59 and are now at par. When Government need money badly it has to borrow at high rates. The position is the same now with zamindari properties. There is a period of depression and zamindari stock is low. He would say that the only reason for selling estates nowadays would be to avoid a class war. He was not in favour however of State purchase. The Government might well get into the same difficulties that were experienced by the East India Company before the Permanent Settlement. If the State does purchase, compensation will have to be paid at land acquisition rates.

As regards the reply to question 92, he explained that by "tenants" he referred to patnidars.

In reply to Sir F. Sachse, he said that when civil suits are decided *ex parte* Government should not exact full court fees. A fee of 8 annas or 12 annas would be sufficient. In the *ex parte* cases the procedure is dilatory and it takes months to issue notices, registered post-cards, etc., before the decree is obtained. The tenants then sometimes apply to have the decree set aside. He did not agree that *ex parte* rent suits are decided more quickly than certificate cases. He agreed however that there would be no objection to disposal of rent suits by revenue courts provided that the rents are realised expeditiously. He agreed it was a condition for the grant of certificate procedure to landlords that the record-of-rights must be maintained, and that was the reason why it has always been used in khasmahals. He said he is in favour of maintaining the record-of-rights. Mr. S. K. Ray Chowdhury mentioned that his estate had certificate powers until they were suspended recently, and was glad to pay the costs because his rents were more punctually realised. It is true that the legislature has preferred Civil Courts to revenue officers because the Civil Courts have a better knowledge of law. He agreed however that a knowledge of law is not essential to the assessment of rents. Sir F. Sachse enquired with reference to the reply to question 65 how it would be possible for the Civil Courts to decide all cases of assessment of fair rent. Mr. Brahma replied that the question of a tenant's status is often involved, e.g., whether he is a tenure-holder, occupancy raiyat, mokararidar, etc. These questions could better be decided in the Civil Courts. In the reply to question 55, he said that only the principle of assessment, which is the old law of the country, has been laid down. This principle is based on the productivity of the land. He did not agree that the Civil Courts would not be in a position to judge fertility.

In reply to Secretary, he said that munsifs would not visit the locality in order to judge the fertility of the soil but could send out Civil Court commissioner.

As regards the reply to question 89, he said that the proposal to have crops harvested and kept in custody of the landlords means that the Collector should depute a revenue officer to distrain the crops. He did not think there ought to be a general objection to this proposal. The abolition of distress has affected the landlords because although the section was not much used, the threat of it was useful.

Fertility should be investigated by an expert staff after a period of 15 years and reduction or enhancement made according to the improvement or deterioration of the soil. The record would have to be maintained by some Government agency. He did not agree that after the re-settlement of their estates lotdars still had a 40 per cent. profit. Sir F. Sachse pointed out that if the average rent in the Sunderbans is Rs. 6 an acre and the lotdars' revenue was only 8 annas

they were making a large profit and it is only reasonable that they as well as Government should do something to improve agriculture and distribute seeds. Mr. Brahma replied that fertilizers have not yet become necessary in the Sunderbans. The spread of agricultural education is essential and this can only be carried out by Government.

He agreed that the Sunderban lots are entirely different from the rest of Bengal and that the rents fixed by revenue officers were assessed with reference to the existing rents fixed by loddars and their under-tenure-holders. In the last two or three years some reductions of rents have been made by revenue officers. Sir F. Sachse pointed out that previously high contractual rents had been maintained by settlement officers under the supposition that they could only reduce rents on the specific grounds mentioned in 38, Bengal Tenancy Act. Mr. Brahma was of opinion that high contractual rents could and should have been reduced.

In reply to Khan Bahadur Hashem Ali Khan, he said that the income from his own property for which he pays Rs. 703 is about Rs. 1,200 and his profit is about Rs. 300. His own rate of rent is 12 annas or 13 annas per bigha and he realizes rent of about one rupee a bigha. Under-raiyats pay about Rs. 2 a bigha. The property is in a permanently settled area. In the 24-Parganas Sunderbans the Khulna jute also is grown. The average price of paddy is Rs. 1-8 to average rate is Rs. 6 an acre. The main crop is aman paddy. In Rs. 2. The average outturn of jute is 4—6 maunds a bigha and the average price is Rs. 5 per maund. Prices of jute and paddy are lower at the harvest season.

He estimated the cost of cultivation for aman paddy as follows:—

|   | Rs. a.         |
|---|----------------|
| 3 ploughings at 6 annas a day each  | ... 1 2        |
| Cost of seeds at 10 seers per bigha   | ... 0 6        |
| Preparing field for seedling bed  | ... 0 6        |
| Transplanting   | ... 0 12       |
| Depreciation on bullocks (price Rs. 40—life 8 years, area ploughed 20 bighas) | <hr/> ... 0 4  |
| Total   | <hr/> ... 2 14 |

In the Sunderbans 1/20th of the crop is given to labourers for harvesting, storing, etc. He did not know of any case where as much as 1/10th is given. After deducting the cost of cultivation, there is certainly a good margin of profit left to the cultivators. The cultivators work only for three months in the year. The rice mills have taken

away rice husking : mat making and weaving have disappeared, and buses and lorries have affected the income from hiring out carts. Java sugar and sugar factories have destroyed manufacture of sugar by cultivators. If they could find employment all the year round, the average cultivator would be very well off. Another reason for the present position is the uneconomic size of holdings. When plots are scattered it is difficult to protect the crops. Fences would double the outturn. Consolidation of holdings is also desirable. Cultivators sometimes use cowdungs as manure. They pay nothing for it. Fish bones, carcases, ashes, leaf-mould and dung can be used as manure, but cultivators do not use these resources. A huge amount would not be required to re-develop rural industry. A vast amount of expenditure is now made on secondary education which only leads to unemployment. He was in favour of substituting agricultural education.

If a programme for social services is prepared the country may be willing to pay for it, but there is little confidence that the money will be used in the right direction. Some taxes recoil on the taxpayer: for example, road cess is not always used for the purpose for which it was imposed.

As regards his reply to question 12, he maintained that socialistic and communistic propaganda is now being carried on and zamindari officers are being threatened. Mr. P. N. Brahma referred to the case of Sir Daniel Hamilton who is universally regarded as an exemplary landlord. His paddy was looted and his officer who went to protest was mercilessly beaten and is still hovering between life and death. Government officers took no action to prevent the propaganda which led to this case. The Subdivisional Officer of Basirhat issued an injunction under section 144 when it was too late, although several applications had been presented to him from time to time asking for protection. Mr. S. K. Ray Chowdhury showed the Commission a leaflet which had recently been circulated by a local *krishak* party in Falta thana. Mr. Brahma said that these agitators never visit the areas where distress has occurred but confine their activities to areas where there has been a bumper crop. He agreed that all classes have the right to form themselves into associations but only consistently with the rights of other classes. He said that the price of paddy and jute has now risen. The increase in the price of paddy may have been due in some districts to crop failure but in other areas there have been bumper crops. The Tenancy Act has succeeded in giving some safeguards to tenants but it has failed in other ways. From the economic point of view it has not been successful. He agreed that the Acts of 1885 and 1928 might have been intended for the benefit of the tenants —so perhaps were the Bengal Agricultural Debtors Act, the Village Self-Government Act, the Sanitary Drainage Act and the Bengal Development Act,—but the real point is that the disease has not been

properly diagnosed. The main cause is economic. The cause of indebtedness is not due to oppression by the landlords or the mahajans. The reasons lie elsewhere. No scientific enquiry has ever been made into the causes of indebtedness. He had not heard that mahajans have charged as much as 37½ to 50 per cent. as interest. He would regard 12½ per cent. as not being high interest in respect of small loans. He did not agree that landlords as a class have been oppressive. Some landlords may have oppressed their tenants but the majority have not.

He had never heard of abwabs at 4 annas a rupee: at least in 24-Parganas. The Proja movement was not started 30 years ago but originated shortly before the last election. If the State buys up the zamindars and tenure-holders, the landlords would demand cash. Bonds would not be accepted and probably would be regarded as scraps of paper. He thought that if the landlords and tenure-holders received sufficient compensation in cash, they would invest it in industry. Lawyers have not been much affected by the Debt Settlement Act. It is true that the number of cases has been reduced but most of them would have been *ex parte* cases. He himself had moved for repeal of the Bengal Agricultural Debtors Act but not in the interest of the lawyers. The reason that landlords allow three years' rent to accumulate is because they do not wish to harass their tenants by suing them every year. If this were the practice, there would have been not only loss of money and loss of time—but the expenditure in court fees would have increased and the tenants would have to pay more. It is not profitable for the landlords to go to Courts for small sums, but eventually they have to go to Court because their tenants will not pay. The landlords may have been too indulgent but this only shows that they have not been oppressive.

In reply to Khan Bahadur M. Hossain, he said there may be opinions to the effect that the raiyats had proprietary rights before the Permanent Settlement but he did not consider that view historically correct. Mr. Justice S. C. Mitter may have said that raiyats had such rights "to all intents and purposes" but those very words make all the difference. He thought that the weight of authority is on the other side. He maintained that the grounds given in reply to question 4 are not consistent with the theory that zamindars were hereditary officers of Government. Heritability is one incident of a proprietary right but not of a Government official's position. When zamindars were removed, the payment of malikana was not a pension, but was given for all times, and does not indicate that zamindars were hereditary officers. The word "malikana" is itself inconsistent with such a theory. "Malik" is a Persian word meaning proprietor and shows that the allowance must have been paid in Moghul times in recognition of the proprietary right—(a wrangle then developed between the Khan Bahadur and the witness which made it impossible to report the proceedings and the Chairman had to intervene). In Moghul times

and up to the Permanent Settlement the assessment of revenue was fixed on the produce, and one-eleventh was given to the landlords as their profit. This does not indicate that it was a commission paid to an officer of Government for collecting the revenue. He had no statistics to show the extent of cultivation in other provinces but thought that it must have been very slow. The peasantry in other provinces are worse off than the cultivators of Bengal. It is due to the Permanent Settlement that the tenants have not been practically sold as slaves as has been the case in other provinces where there is no Permanent Settlement. He mentioned as reasons for the landlords' personal lack of interest for the welfare of tenants, first, the Cess Act which is designed for the execution of public works, social services and communications. He asked how many roads have been made since 1870. In 24-Parganas the District Board has not built a single road nor have any irrigation works been carried out. Another reason is that no enhancements for improvements are possible under the Tenancy Act. It is difficult for landlords to use the Tenancy Act because the procedure laid down is so cumbrous. If they lay out capital on improvements, they have to go to Civil Courts to get enhancements after registering the improvement effected (here the Chairman again intervened to terminate a wrangle). The present procedure is the same as lending money, and then going to the Civil Court to ask it to fix the rate of interest. Another reason is that the new section 75A of the Tenancy Act has stopped all enhancements.

He did not agree that non-agricultural tenants are included in the words "all classes" in the Permanent Settlement Regulation. The word "raiyat" was not synonymous with "tenant" at the Permanent Settlement. He thought by "raiyat" was meant cultivating raiyat. He was however in favour of giving security to non-agricultural tenants who have constructed homesteads or factories and have thereby improved the land. Pargana rates were not fixed for all times. They were based on productivity of the land and he did not agree that they should be regarded as inviolable on account of the provision that the cultivation of a more valuable crop was only a ground for enhancement. He did not agree that rent has increased three times in Bengal owing to enhancements. As example of improvements executed by landlords, he mentioned that the Chowdhuris of Satkhira had excavated a khal, 10 to 12 miles in length. This was in the 1860s or 1870s. He also mentioned the construction of a road from Taki to Calcutta by the late Babu Kali Nath Munshi during Lord William Bentinck's time. The Satkhira zamindars had also established an H. E. school in 1858 and constructed many roads. He could not say how much these landlords had spent: they are now ruined. He did not agree that the shortage of land revenue in Bengal is the reason why Government has not done more for social services. Land revenue in Madras may be greater than in Bengal but the revenue in Bengal is greater from other sources as

a result of the Permanent Settlement, and the density of population on the land in Bengal is double that of Madras. Holdings may be uneconomic, but it is due to the leniency of landlords and mahajans that the tenants have not suffered more than they have. Had Government encouraged agricultural education and development of home industries, they would have been well-off.

The raiyati assets have increased since the Permanent Settlement in cash but not in terms of produce. The valuation at the Permanent Settlement was made in cash but was based on the value of a share of the produce. The principal reason that assets have increased is the extension of cultivation. The reclamation of waste and jungle could never have been carried out by Government. He agreed that abwabs were made illegal by Regulation VIII of 1793 but he thought there is nothing immoral about their payment. There is no reason why a tenant should not make a contract with his landlord to pay him something in return for accommodation. He agreed that holdings have become uneconomic owing to increase of population and the laws of inheritance but thought that if productivity is stimulated, the land can provide enough food to the people. By "uneconomic," he referred to subdivision, and the scattered nature of holdings.

Bargadars suffer when there is a failure of crops but the same is the case with their landlords and the bargadar is not worse off than the landlord because his landlord has to pay rent. He did not agree that the system encourages indolence. A bargadar considers the fertility of the soil and other factors when he enters into a contract. The difference between a bargadar, and a raiyat in Moghul times, is that the latter had the rights of a tenant whereas the bargadar has none. If occupancy rights are given to bargadars, it would be giving them something for which they have not paid, and it would encourage dishonesty and indolence. They might not make any effort to cultivate the land and thereby make their landlords suffer. They might also try to deprive their landlords of the proper share of the crops.

It is correct that the new constitution has given political powers to the raiyats but not to such an extent that the legislature should carry through any unreasonable legislation—that would not be tolerated by the British public.

In reply to Dr. R. K. Mukherji, he said that his Bar Association stands for the maintenance of the Permanent Settlement and legislation for improvement of agricultural conditions. This improvement could be carried out both by Government and the landlords. The purchase price of zamindaris is now tending to recover. If the State purchases them, compensation should be paid at Land Acquisition rates because the purchase will be compulsory. Before 1929, the normal

purchase price was 20 times the net profit. In calculating compensation, the abnormal conditions now prevailing should not be considered. The causes of the present economic conditions are: ignorance and lack of agricultural education, and the fragmentation of holdings. It might be possible to effect consolidation of holdings by legislation but the laws of inheritance could not be changed. It is the laws of inheritance and not the land system which are responsible for the present condition. It would not be correct to say that the middle classes are exploiting the cultivators. If the price of paddy rose to Rs. 5 a maund, Burmese rice would still come into Bengal and affect the market. In the same way, Government can only control an industry so long as it can compete with foreign industries. The first necessity is to increase production.

Dr. Mukherji suggested that tenants might be given the option of paying rent in cash or kind. Mr. Brahma said that he would be prepared to take half of the rent in cash and half in kind. There would be difficulties in collection and in transport. He agreed however that provision of marketing facilities is desirable. Cultivators are out of work from six to eight months in the year. It would require finance to organize cottage industry. This would be beyond the power of the landlords. The State would have to assist. His estimate was that occupancy raiyats pay as rent one-twelfth of the gross produce. It might be as much as one-fifteenth according to the productivity of the holding. The area of an economic holding has been calculated at 8 acres. The average area in possession of a family is smaller, and that is a fact which shows the necessity of intensive cultivation.

### Reply by the Rajshahi Bar Association.

**Q. 1.** The description appears to be exhaustive of the duties and obligations as set forth in the Regulation.

No, the Permanent Settlement did not take any existing rights of the tenants.

**Q. 2.** Permanent Settlement did not convey any such power.

The answer to the second part is also in the negative.

**Q. 3.** The landlords have played a small part in the economic development through extension of cultivation. They further did some work in the form of establishment of schools, hospitals, construction of roads and excavation of tanks, etc. The following seems to be reasons for partial failure:—

- (1) It was nowhere laid down with clearness what functions were expected of the landlords; no suitable education and ideas for economic developments.
- (2) The Government did not give any advice or provide for dissemination of improved and modern ideas regarding cultivation among zamindars.
- (3) Absenteeism of the landlords

**Q. 4.** Certain classes of zamindars were proprietors of lands from before and some were revenue farmers (collectors of revenue). But the Permanent Settlement gave all of them same status and recognised all of them as actual proprietors of the soil. The preamble and section 7 (Article VI), paragraph 1, of the Regulation show that it was assumed by the framers of the Regulation that they were proprietors from before.

**Q. 5.** The annulment would be a breach of solemn pledges of the East India Company which recognised the zamindars about 150 years ago, as proprietors. The tenants were not necessary parties as they were proprietors, and the Regulation was enacted for the purpose of fixing the revenue by the proprietors. Even assuming that the tenants were proprietors in the sense that the tenants were entitled to be in possession of lands on payment of rent, the said right of the tenants having been fully assured by subsequent legislation the tenants have not been prejudicially affected by the Permanent Settlement and the plea for annulling Permanent Settlement on the ground of the tenants not being parties has no legs to stand upon.

**Q. 6.** The expectation that the zamindars would extend cultivation was fulfilled to a considerable extent.

The increase in the area brought under cultivation is due mainly to the increase in population and to a certain extent to the initiative and pecuniary assistance of the zamindars and to the enterprise of the tenants.

**Q. 7.** It is difficult to give an estimate of proportion. Greater part of the increase is due to the reasons stated in clauses (ii) and (iii), Some increase is due to reasons stated in clause (i). We must notice here that much increase is due to silting up of low lands by fluvial action and natural causes, without any effort of landlords or tenants.

The figure of 12 crores does not represent the sum total of rents realised from raiyats which would be much less. In settlement, raiyats whose lands were let out in barga have been considered for the purpose of cess valuation as tenure-holders and annual value of the raiyats' interest, was made in such cases upon estimated value of produce and not upon the rental basis.

**Q. 8.** The expectation was fulfilled generally speaking, with few exceptions.

**Q. 9.** To a small extent the zamindars have improved their estates by industry, enterprise and good management. After creation of subordinate tenures this has been done to a certain extent by subordinate tenure-holders also.

The zamindars were expected to conduct themselves with good faith and moderation towards their raiyats and it was enjoined that strictest adherence to the same principles in the persons appointed to collect rent from them, should be made. This has suffered to some extent on account of absenteeism of the landlords.

**Q. 10.** It was in the interest of the country economically and for the greatest good for the greatest number according to the condition of the country prevailing at the time.

It has resulted in the advantage of the landlord but not at the expense of the tenants, whose status remained unchanged.

**Q. 11.** Eighty per cent. is not a correct figure. This figure is derived from cess valuation figures which is not a correct measure of the rents realised from raiyats. Besides at the time of Permanent Settlement many zamindaris were losing concerns and the zamindars had to invest large sums. Road cess and education cess diminished the profits of the zamindars to a certain extent. Cost of collection has not been taken into account.

(ii) There was subinfeudation but it was necessary for extension of cultivation and better management.

(iii) Permanent Settlement is not responsible for enhancement of raiyati rents. Raiyati rents in khas mahals and temporary settled estates are higher.

(iv) The overlordship may be in some cases harassing but in many cases, the resident landlord has acted as beneficent arbitrator and settled disputes between tenants and helped them in many ways.

**Q. 12.** No.

**Q. 13.** (i), (ii) and (iii) No.

**Q. 14.** In the opinion expressed above this question does not arise. But if the Permanent Settlement is abolished or substituted by a different system adequate compensation should be given and in our view 20 years' purchase on the net annual profit would be suitable compensation.

It should be paid in cash. The outgoing zamindar will then get capital for engaging in business. In the absence of statistics it is not possible to answer.

**Q. 15.** Redeemable after 25 years. Five per cent. should be rate of interest free of income-tax.

**Q. 16.** There would be a violent change in social structure, the result of which, is very difficult to predict. The landed aristocracy and landed middle class will cease. If they get cash compensation, they may engage in commercial and business undertakings, it would no doubt be good to the country but if they succeed. But there is chance for want of training, they will fail and lose their capital. In which case the result will be disastrous.

Raiyats coming in contact directly with the Government will be like raiyats in khas mahals and under Court of Wards, who are in no way in better position and in many ways worse than raiyats under ordinary zamindars.

**Q. 17.** If zemindary right is to be purchased the tenure-holders' right, the rights of all above actual tillers of the soil should also be purchased, otherwise not. The result will be same as in question 16.

**Q. 18.** No.

**Q. 20.** Yes, it has brought the raiyats to closer touch with the landlords (tenure-holders) which helped them in some cases.

**Q. 21.** Same answer as to question 16.

**Q. 22.** Permanent raiyats should be given in homestead at suitable rentals. With regard to khas lands they should be given the option of taking raiyatwari settlement or given special compensation for khas right.

**Q. 29.** Slightly on the increase. Besides causes noted in question 30 increase of population is another cause.

**Q. 30.** (1) The tendency of the settlement authorities to record bargadar as occupancy raiyats temporarily led to a decrease in the number of bargadars. The amending Act of 1929 removed the apprehension of the raiyats and restored the old state of things.

(2) The facility given by Act of 1929 was not much. Heavy landlords' fees prohibited transfers.

**Q. 32.** No, because in that case there will be no check on recalcitrant and negligent bargadars from whom land can be taken back.

Bargadary is only a supplemental income of raiyats who have not sufficient lands. Question of protection does not arise.

**Q. 33.** Yes; does not arise.

**Q. 34.** The effect of giving occupancy right would be to abolish the barga system and many men will be thrown out of employment. Middle class persons who get their lands cultivated in barga depend in many cases for their subsistence on the usufruct obtained. They will be very hard hit.

Answer to the latter part of the question is in the affirmative.

**Q. 35.** Ordinarily half; in case of special crops and special circumstances the shares should be varied. No maximum limit need be fixed by law.

**Q. 36.** Ordinarily wages is annas 5 and 3 pies. In comparison with bargadars, the wages appear to be equal with the distinction, that the bargadar can adjust the time to be devoted to barga cultivation according to his convenience but the labourer has to act according to the convenience of his employers. The position of under-raiyats is better.

**Q. 37.** (i) No.

(ii) Yes; the tendency has increased.

(iii) No; it has increased the value of raiyat's interest.

(iv) No; that is purely arbitrary and will affect rural credit and will decrease the value of land.

(v) We have no suggestion.

**Q. 38.** About 7 acres.

**Q. 39.** Yes.

**Q. 40.** Yes, it is desirable. The method followed in the Punjab may be examined and if suited may be adopted.

**Q. 41.** Facility for consolidation by exchange should be given.

**Q. 45.** No.

**Q. 46.** Customary notion of rent was money value of a particular share of drops. Enhancement of rent in case possible rise in price of crops was contemplated.

**Q. 47.** No. Reason is given in answer to question 46.

**Q. 48.** Does not arise in view of answers to question 46.

**Q. 49.** It is almost impossible to determine which tenancies were existing from the time of Permanent Settlement and what was the rent at the time. Even if there is any case for reduction, lapse of time and creation of intermediate interest, acting of parties throw difficulties in the way.

In case of high rents for particular cultivation such as mulberry, if the said cultivation ceased to exist, relief should be given by reduction of rent.

**Q. 50.** Intention unexpressed in the statute does not bind the Government and there was no legal bar to provision for future enhancement of rent conceding that there was unexpressed intention, Government made no mistake in providing enhancement of rent in case of rise in prices and similar causes, as from very ancient times the practice, was to give a share of crops as rent.

**Q. 51.** No.

**Q. 52.** Value of a definite share of the produce.

**Q. 56.** One-fifth.

**Q. 57.** Should be alterable according to money value of the produce. Revision after 15 years.

**Q. 58.** No; does not arise.

**Q. 59.** Provisions of the Bengal Tenancy Act are all right.

**Q. 60.** No.

The principle is that rent is money value of a share of crops.

**Q. 61.** No.

**Q. 62.** Yes; but discretion should be left to the court to refuse enhancement in proper cases.

**Q. 73.** Yes; (i) want of proper manure, and (ii) blocking of natural waterways.

No effective steps have been taken by Government.

**Q. 86.** Debt Settlement Boards have been a total failure. The law is extremely defective and the persons who have been appointed to administer the law have not the capacity, training and competency to deal with it.

Very great misuse is being made for not fixing any pecuniary limit to the power of the Board. Ignorant and almost illiterate and irresponsible persons of no standing are now dealing with cases involving lakhs of rupees.

Application for settlement of joint debts are being made separately in different Board. As these joint debts are also in law separate two per cent. is being levied in the Board and in appeals on each application. So if ten persons jointly and separately liable make ten separate applications to the same or different Boards, the creditor will have to pay twenty per cent. as court-fees in the Boards as also in appeals if the determination is against him. The defects are too numerous to mention. Ousting the jurisdiction of the Civil Court and even of the High Court has worked extreme injustice in many cases.

### Reply by the Tippera Bar Association.

**Q. 1.** The description given in the question of the rights and obligations of zamindars after the conclusion of the Permanent Settlement is, on the whole, exhaustive. The Permanent Settlement did not take away any existing right from tenants. On the other hand, the Government was empowered by Regulation I of 1793 to enact such Regulations as might be thought necessary for the protection and welfare of the dependent talukdars, raiyats and other cultivators of the soil. As a matter of fact, successive Acts have been passed by the Supreme Legislature as well as by the Local Legislature for giving better rights to the tenants which have considerably crippled the powers of zamindars.

**Q. 2.** Legislations subsequent to Permanent Settlement gave some powers to the zamindar to choose his tenant. But no power was practically conferred on the zamindars to regulate the usage of the land to the interest of the province as a whole.

**Q. 3.** Landlords have not done anything substantial in the economic development of the province. In regard to the economic development of the province the State is also responsible for the landlords' failure to perform completely the functions expected of them at the Permanent Settlement. Initiation of the State is necessary for the economic development of the Province as a whole.

**Q. 4.** Zamindars were actual proprietors of the soil before the Permanent Settlement.

**Q. 5.** Annulment of Permanent Settlement would certainly be a breach of the solemn pledge given by the East India Company to the zamindars. The Permanent Settlement has to some extent crippled the financial resources of the country. But road and public works cess, education cess, and embankment charges in areas where embankments are maintained by the Government have been imposed upon the zamindars after the conclusion of the Permanent Settlement.

The contention that tenants were no parties to the pledge is without any substance. Tenants with clearly defined rights conferred by several tenancy legislations had no existence at the time of the Permanent Settlement. Occupancy rights and other rights conferred upon raiyats have made them secure in the occupation of the lands. The annulment of Permanent Settlement would not take away the liability of raiyats to pay rents.

**Q. 6.** The expectation of increased cultivation made at the time of the Permanent Settlement has been fulfilled. Increased cultivation is due to enterprise of tenants as well as the initiative taken and

assistance given by landlords in some cases. In order to bring waste lands under cultivation, landlords have allowed tenants to cultivate free of rent for some time and at nominal rents for some time. Increase in population has also contributed to increase in the area brought under cultivation.

**Q. 7.** Valuation made in cess revaluation cannot be said to be accurate in all cases. Increase in rent-roll is due to increase in cultivation and reclamation of waste lands by the efforts of landlords and tenants as well as enhancement of rents.

**Q. 8.** Landlords have, generally speaking, conducted themselves with moderation towards their tenants and have extended generous treatment to them. But there are exceptions. Some landlords are extortionate in their demands.

**Q. 9.** Extension of cultivation is mainly the duty cast upon landlords by the Permanent Settlement. No other obligations than generous treatment to tenants were imposed upon the landlords. These expectations have to some extent been fulfilled. Absenteeism is to some extent responsible for the want of good management in some cases.

**Q. 10.** At the time the Permanent Settlement was introduced, the financial stability of the State was ensured. In the view, it was in the economic interest of the country and for the greatest good of the greatest number. The revenue system introduced by the Permanent Settlement cannot be said to have resulted in the advantage of landlords at the expense of tenants except in some instances.

**Q. 11.** Permanent Settlement has led to subinfeudation of tenancy. But the other criticisms are not justified. On account of the imposition of road and public works cess, education cess, embankment charges, etc., 80 per cent. of the income from land does not go to the zamindars. Enhancement of raiyati rents cannot be said to be the result of the Permanent Settlement. Nor has the Permanent Settlement created a system of overlordship over the actual cultivators which is harassing and oppressive. In temporarily settled areas also, rents are periodically enhanced.

**Q. 12.** The abolition of the Permanent Settlement cannot be advocated on the above grounds.

**Q. 13.** It is an over-estimate that the Permanent Settlement causes a loss to the State of 75 per cent. of the raiyati assets. Abolition of the Permanent Settlement would destroy the entire social and economic fabric of the country. Tax on agricultural income should not be introduced as the country is already heavily taxed.

**Q. 14 and 15.** It is not possible to give fairly accurate estimate of compensation to be payable to the zamindars in case of abolition of Permanent Settlement. Moreover there is a large variety of tenure-holders and sub-tenure-holders who have got permanent rights on payment of selami.

Their interests are also to be taken into account. Abolition of Permanent Settlement would lead to serious complications owing to the fact that various interests will be affected.

**Q. 16.** State purchase of zamindaris would lead to a complete disruption of the social structure of Bengal.

**Q. 17.** If the interest of zamindars be purchased the interests of tenure-holders should also be purchased by the State. It would not be of advantage to the raiyats to come directly under the Government. Khasmahal tenants do not enjoy greater advantages.

**Q. 18.** All that can be said is that a large staff will be necessary. It is not possible to give an estimate of the costs which will necessarily be very heavy. Percentage of collection charges in khas mahals would be a guide in determining the amount of costs.

**Q. 19.** There is no reason why the raiyats should prefer to come directly under Government. Khasmahal tenants are not in a better position. On the other hand, the khasmahal tenants are under disadvantages; payment of rent is imposed with great rigour. In the case of private landlords rents in many cases remain unpaid for 4 years.

**Q. 21.** Social and economic position of the province and of the tenure-holders would be seriously affected. The problem of unemployment would assume more serious proportions.

**Q. 22.** In case of purchase of zamindaris and tenures by the State, homestead and khas lands should be left to their occupation on payment of rent. Zamindars' and tenure-holders' khas land may be ascertained by reference to settlement khatians and the papers kept by them.

**Q. 23.** Occupancy rights of raiyats, as understood now, is the creation of British legislature.

**Q. 24.** I do not subscribe to this view.

**Q. 25.** Tenants actually cultivating the soil should have occupancy rights.

**Q. 26.** Tenants actually cultivating the soil should have rights of occupancy under both the classes contemplated in this question. Their statutory rights should be preserved.

**Q. 27.** Regulation I of 1793 does not appear to contemplate the case of non-agricultural tenants. Non-agricultural tenants should be given occupancy rights in respect of their homestead.

**Q. 28.** Fair rent should be realised from non-agricultural tenants occupying homestead. No additional tax should be imposed.

**Q. 29.** The number of bargadars is on the increase due to subdivision of holdings, increase in population, and indebtedness of tenants.

**Q. 30.** I do not think that the increase in the number of bargadars is due to causes enumerated in sub-clauses (i) and (ii). The increase is to a great extent due to the sale of raiyati holdings during economic depression and also due to unfettered right of sale conferred by the amending Bengal Tenancy Acts.

**Q. 31.** Approximately 2 per cent. of the total area of cultivated lands. Majority of bargadars do not hold lands in raiyati or under-raiyati right.

**Q. 32.** No bargadars are in the position of labourers.

**Q. 33.** Economically sound.

**Q. 34.** Occupancy rights should not be given to bargadars. If occupancy rights be given to bargadars, a large number of people will be thrown out of employment.

**Q. 35.** Half is a fair proportion. This limit may be fixed by law.

**Q. 36.** In the district of Tippera, the wages of agricultural labourers vary from 5 as. to 6 as. per diem in the average. Their economic position is not worse than that of bargadars. Under-raiyats are in a better position.

**Q. 37.** Considerable areas of raiyati lands have not passed to non-agriculturists. Transfer of raiyati holdings should not be restricted to agriculturists.

**Q. 38.** It is difficult to answer this. Size of an economic holding depends upon the number of mouths to feed and upon the fertility of the soil.

**Q. 39.** Yes.

**Q. 40.** It is desirable, but not practicable unless there is legislation on socialistic principles.

**Q. 41.** It is not possible to give special facilities according to the existing law of the country and mode of cultivation.

**Q. 42.** Undesirable, it is not possible to enforce any limit.

**Q. 43.** Coparcenary is detrimental to good cultivation. The evil cannot be minimised without interfering with the laws of inheritance.

**Q. 44.** This is not possible without resorting to legislation.

**Q. 45.** It is not desirable.

**Q. 46.** Enhancement of rents might be contemplated.

**Q. 47.** Permanency and fixity of rates of rent in the case of tenants does not appear to have been contemplated.

**Q. 48-50.** These questions do not arise in view of the answers given above.

**Q. 51.** It does not appear to be the intention of the framers of the Permanent Settlement that all future settlements should be made at pargana rates.

**Q. 52.** Determination of fair and equitable rates depends upon the quality of the lands. Conditions prevailing in other provinces do not apply to Bengal.

A maximum limit may be fixed by legislation.

**Q. 53.** Majority of rents are lump rents. But the quality is not overlooked. Rates of rent vary according to the quality of lands. Rates differ sometimes for lands of similar value in different villages.

**Q. 54.** No. Price or premium paid in acquisition have in many cases determined rent to be paid.

**Q. 55.** Re-adjustment of rents on a uniform basis throughout the province is not possible.

**Q. 56.** 1/6th of the gross produce should be the landlord's share. Its equivalent in cash should be taken. Otherwise disputes and complications will arise.

**Q. 57.** The rent should not be fixed in perpetuity. It should be altered according to the money value of the produce and the needs of the State. Rates of rent may be re-examined every 20 years.

**Q. 58.** There would be no advantage in the substitution of income-tax for rent. There will be serious loss of revenue in that case unless the assessment is too high.

**Q. 59.** The procedure for fixing fair and equitable rents and for enhancing rents is not free from defects. Enhancement of rents should not be allowed within 20 years. A period of 15 years is too short with regard to enhancement on the ground of rise in price of staple food-crops. Price of two decades should always be taken into account in determining the amount of enhancement. Revenue officers should not be entrusted with the duty of finding out the prevailing rate of rent.

**Q. 60.** Enhancement as a result of fluvial action should be allowed to the landlord.

**Q. 61.** No objection.

**Q. 62.** Enhancements on the ground of rise in prices may not be given in the case of tenants who require their whole crops for their consumption. But it will be difficult to determine this when disputes will arise.

**Q. 63.** No objection on principle. But improvements effected by the tenants and advance rents if any paid by the tenants should be taken into consideration.

**Q. 64.** There should be such provisions in the law.

**Q. 65.** The same procedure should be applied in the settlement of rents in temporarily settled estates and permanently settled estates. In both cases, the appellate tribunal should be the District Judge who should be empowered to transfer appeals to subordinate judges.

**Q. 66.** Yes, there are cases when settlement of fair rates in private estates under section 105, Bengal Tenancy Act, has resulted in unfair enhancement. In my opinion the fault is mainly due to settlement courts.

**Q. 67.** It is true.

**Q. 68.** In parts of pargana Bardakhat in the district of Tippera.

**Q. 69.** Yes.

**Q. 70.** This is due to different principles adopted in different districts.

**Q. 71.** It is a fact that remissions are not ordinarily given and in khas mahal areas, remissions are not allowed to a sufficient extent. It is due to Government policy and probably due to instructions issued by the Government. Rules may be improved.

**Q. 72.** Average yield and cost of cultivation vary according to the quality and situation of lands and rates of wages of labourers who are employed in helping cultivation.

**Q. 73.** It is believed that productivity of the soil has deteriorated. No steps are taken by the Government to improve the fertility of the soil. Manures and improved seeds are not distributed. The Agricultural Department is not properly organised.

**Q. 74.** Provisions of these Acts have not been here taken advantage of. Levy of charges gives rise to discontent and tenants are unable to bear increased burden and have no remedies against improper assessment in Civil Courts which are alone competent to deal with intricate questions of law involved.

**Q. 75.** We have got no information.

**Q. 76.** Salami is realised. Cannot say from when. It is not known that salami or any portion of it is utilised in improving the agricultural condition of lands.

**Q. 77.** The policy of the Government is mainly and the land system is partly responsible for the present uneconomic condition of the raiyats. Cottage industries should be encouraged and attempts should be made to raise the prices of paddy and jute and other commodities.

**Q. 78.** Average income of a raiyat from his holding consisting of 3 acres of land may be approximately Rs. 100. It is difficult to say his average income from other sources. Almost 25 per cent. can maintain themselves and their family from the income derived from holdings.

**Q. 79.** Present system is unsatisfactory. Continuous and accurate land records may be maintained. A full statement of the crop on each plot from year to year is desirable. But it will require a great deal of labour and expense.

**Q. 80.** The suggestions are commendable. Steps should also be taken to raise the price of commodities.

**Q. 81.** One of the main reasons is the pressure of population in the land. It is difficult to say without detailed enquiry what percentage of population is surplus in respect of the agricultural needs of the country.

**Q. 82.** Starting Government-aided factories will be of some relief, but is not the only means of relieving the pressure on lands.

**Q. 83.** No efficient organisation, Government or private, exists for the improvement of agricultural credit. Steps may be taken to finance liberally the Land Mortgage Bank and also to help loan companies in the mufassal and debentures may be issued.

**Q. 84.** It cannot be said that 25 per cent. of the gross produce of land goes to the mahajans as interest alone. After the establishment of Debt Settlement Boards, payment of debts has practically been suspended.

**Q. 85.** Co-operative societies have previously failed in tackling the credit problem of the agriculturists. Agriculturists have not been benefited by the co-operative societies. It is due to mismanagement and undue Government interference. A very small percentage of agriculturists are members of such societies. It is not known that any co-operative society has actually succeeded in wiping out the debts of their members. Rate of interest is rather high.

**Q. 86.** Debt Settlement Boards have not been able to deal with the problem of agricultural debts. There are various defects. The Act itself is imperfect. The working has been entrusted mostly to people who are ignorant of law and have no experience in sifting evidence. Cases are not disposed of and kept pending indefinitely. Arrears of rent should be outside the jurisdiction of these Boards. Rural credit cannot be improved unless creditors can expect to get their money back at reasonable rates of interest or Land Mortgage Banks are established in each union in the district for providing money

at low rates of interest and for granting short term loans to enable the agriculturists to meet their temporary needs. Debt Settlement Boards have entirely destroyed rural credit.

**Q. 87.** This is desirable.

**Q. 88.** Land Mortgage Banks have not functioned and cannot function properly. Government or Provincial Co-operative Banks should finance these Banks liberally. If shareholders get dividends, deposits may be made by private individuals for financing the Banks. But the Government is anxious to recoup what they have paid for establishment in the beginning.

**Q. 89.** Machinery for realisation of rents is costly and cumbrous and harassing to tenants. The procedure in rent suits should be simpler.

**Q. 90.** Recovery of rents through the Public Demands Recovery Act becomes harassing owing to the undue zeal of subordinate officers in enforcing the provisions of Act with rigour. The procedure in Civil Courts and Revenue Courts for realisation of rents should be made simpler.

**Q. 91.** Revenue laws should be revised and codified in simpler form.

**Q. 92.** Act XI of 1859 and Regulation VIII of 1819 operate harshly on landlords and tenants. In Act XI of 1859 provision should be made for setting aside the sale at the instance of defaulters or persons interested in the estate such as mortgagees by depositing the Government dues within 30 days from the date of sale. In Assam, there is such a provision. Sales under Regulation VIII of 1819 have the effect of annulling all sub-tenures and incumbrances. Sales for arrears of six months or mid-year sales should be dispensed with. All notices of sale should be served through the Revenue Courts and not through the zamindar's peon.

**Q. 93.** Landlords and tenants will both be economically affected by the Tenancy Act of 1938. It is apprehended that cultivating raiyats would in many instances be reduced to the position of landless labourers inasmuch as rural credit has been destroyed and the only means of finding money is by the sale of lands. The provision for limiting the period of complete usufructory mortgage to a period of 15 years will also operate harshly on the tenants.

The average loss of landlords' income due to the abolition of landlords' fee is probably 10 per cent. in the average.

## **Anjuman Associations.**



**Reply by the Anjuman-i-Millatul Islam, Hooghly.**

**Q. 1.** The Permanent Settlement did not mean to take away any existing right from the tenants; but it created an intermediate class of feudal overlords who in course of time imbibed a false notion that they were the actual proprietors of the soil.

**Q. 2.** Partially.

**Q. 3.** The zamindars fell far short of the duties which the Permanent Settlement expected of them. They did not contribute anything substantial towards the development of the country; of course there are some exceptions. The main reason is that the charm of modern city life dragged them from their tenants and gradually the bond of love and duty towards them was broken.

**Q. 4.** The views seem correct.

**Q. 5.** Much may be said on both sides. In short the annulment of Permanent Settlement would certainly amount to a breach of the pledge but at the time it is a fact that the Government of the country is losing the advantages of an elastic system of any other sort of land revenue settlement.

**Q. 6.** To an extent almost negligible.

(i) Considerable extent.

(ii) To certain degree.

(iii) Almost nil with some exception.

**Q. 7.** All the three factors are responsible for this increase and second and third being predominant.

**Q. 8.** No; as collectors of rent, the zamindars are unmindful of the tenants' distress or disadvantage; they care only for their share and deliberately overlook even failure of crops.

**Q. 9.** To no appreciable extent.

To look after the welfare of the tenants.

To a considerable extent.

**Q. 10.** Yes, for the greatest good.

It has ultimately resulted in the avantages of one at the expenses of many.

**Q. 11.** To a considerable degree, this criticism is sound.

**Q. 12.** Substitution of "via media" in the shape of temporary settlement with zamindars.

**Q. 24.** Yes, but the State is ultimate and actual proprietor of the soil.

**Q. 27.** No.

**Q. 28.** No. Yes.

**Q. 32.** No.

**Q. 72.** As regards paddy, average yield per acre is Rs. 40 approximately against cost of Rs. 33 approximately.

**Q. 73.** Yes. For want of sufficient quantity and good quality of manure which is chiefly due to poverty of the tenants. Government arrangement is not so satisfactory.

**Q. 77.** The land revenue system is responsible to a great extent for the wretched condition of the raiyats; of course, Malaria, the prevailing disease amongst the poor due to malnutrition and insanitary conditions, contributes to some extent to this wretchedness of the mass.

Relief in the shape of partial deduction in rent, good medical arrangement together with the efforts to increase the income of the tenants will go a long way towards the amelioration of their condition.

**Q. 78.** Only a small percentage of the raiyats can make their both ends meet somehow.

**Q. 80.** The suggestions are all welcome for the well-being of the tenants; special attention should be given to good irrigation system for agricultural purposes and establishment of cottage industry. Temporary pecuniary help in shape of agricultural loans at the time of cultivation will solve much of the worries of the tenants.

**Q. 83.** Government should exert itself to grant some relief to the raiyats through its own organisations having branches in interior remote villages.

**Q. 84.** Yes. The only remedy lies with the Government which can give credits on nominal interest to the tenants to tide over their temporary difficulties.

**Q. 86.** Not very satisfactorily. Yes: as the members of the boards are not very happily selected. They are and can be influenced by men of poorer position; so the sanctity of a court is not always to be found in the working of these boards.

**Q. 87.** Yes. Government should do it as early as possible.

## Reply by the Anjuman-i-Islamia, Mymensingh.

**Q. 1.** The Permanent Settlement with zamindars took away the then existing rights of the tenants for it purported to vest proprietary rights in the zamindars, though at the time of the Permanent Settlement tenants were the real owners of the land.

**Q. 2. (a)** Permanent Settlement conveyed to the zamindars the power to choose their tenants.

**(b)** But it did not give any power to the zamindars to regulate the usage of lands.

**Q. 3.** Zamindars have done nothing for the economic development of the country after the Permanent Settlement.

They have totally failed to perform the functions expected of them because they are idlers, ease-loving, arrogant and are mere puppets in the hands of their greedy and tyrannical amlas.

**Q. 4.** The zamindars were not the actual proprietors of the land before the Permanent Settlement.

It is not correct to say that the Permanent Settlement converted the status of the zamindars from collectors of revenue to actual proprietors of the soil. Their right over the soil was actually the same as a poddar had over the treasury money.

**Q. 5.** It was not a pledge given by the East India Company to the zamindars but a Regulation promulgated by the then rulers of the country to meet the then requirements, which like all other Regulations and statutes is always subject to amendment, modification or annulment according to the change in the country. Even if it be considered as a pledge the tenants or the people of the country were not party to it and as such it cannot stand on the economic progress of the country. Moreover, it is doubtful whether the East India Company had any right to make such a declaration.

**Q. 6.** This expectation has not at all been fulfilled.

The increase in the area brought under cultivation is wholly due to—

**(a)** the increase of population,

**(b)** the enterprise of the tenants and no initiative taken by the zamindars.

**Q. 7.** The increase in the rental is wholly due to the enhancement of rent of the tenants.

Nothing due to the good management of the zamindars.

**Q. 8.** The zamindars have totally failed in extending the generous treatment towards the tenants which was expected from them at the time of the Permanent Settlement, on the contrary they are oppressing the tenants right and left. The expectation has totally failed.

**Q. 9.** (i) The zamindars have not in any way improved their estate by industry, enterprise and good management.

(ii) Besides extension of cultivation Permanent Settlement expected from the zamindars to look to the welfare of the tenants, their moral and material progress and this they have failed to carry out.

Absenteeism of the zamindars is not responsible for this.

**Q. 10.** No. It was not.

It brought into existence a revenue system which is not beneficial to the province, but it introduced a revenue system which has resulted in the advantage of the landlord at the expense of the tenants and the people.

**Q. 11.** The criticism regarding Permanent Settlement as noted in question 11 is quite justified.

**Q. 12.** We advocate the abolition of Permanent Settlement on all the grounds as set forth in question 11.

**Q. 13.** (i) We advocate the total abolition of the zamindari system and cancellation of the Permanent Settlement and we do not advocate the substitution of the system of temporary settlement in its place and we advocate (iii) the imposition of tax on agricultural income to be realised through Union Boards.

Grounds:—Permanent Settlement and zamindari system have totally crippled the finances of the country for ever. It has given the unearned increment to the zamindars which rightly ought to have gone to the State and the people.

Temporary settlement would be harassing and detrimental to the interest of the country.

Realisation of tax on agricultural lands would be more easy and it would be alterable according to the demands of the State.

**Q. 14.** The zamindars should get no compensation. If it is thought that some compensation to the zamindars should be given, it should be 5 per cent. of the allowance made to them, at the time of Permanent Settlement.

**Q. 15.** If compensation be paid, it should be paid in debenture or bond carrying interest at 1 per cent. and redeemable within 20 years or so.

**Q. 16.** It would remove some idle, ease-loving and oppressive people from the society, and help them in becoming active members of the society.

**Q. 17.** All middle tenures between zamindars and raiyats should also be abolished and raiyats should come directly under Government. It is expected that this would lead to some advantage.

**Q. 19.** Yes, but the realisation of tax on land should be made through Union Boards.

**Q. 20.** Yes. It has increased the rent of the tenants.

**Q. 21.** It will increase the provincial revenue but would increase the burden of debt of the province. It will also give an impetus to the people to stand on their personal merit.

**Q. 22.** The zamindars and tenure-holders should be allowed to keep their homesteads and so much of khas lands as they will be in a position to cultivate themselves, but they will have to pay rent or tax for the land in their possession.

**Q. 23.** It is not the creation of the British legislation but it had existed from earlier periods.

**Q. 24.** We subscribe to this view. The word "proprietor" connotes "ownership."

**Q. 25.** We are in favour of confining the occupancy right to the tenants actually cultivating the soil.

**Q. 26.** No protection should be given to the non-cultivating people.

**Q. 27.** It was not the intention of the Permanent Settlement to give protection to all classes of tenants including non-agriculturists. We are not in favour of giving occupancy rights to non-agricultural tenants.

**Q. 28.** For economic, commercial and industrial development of the country, it is necessary to give same protection to agricultural land, converted to use for non-agricultural purposes, but the State should levy an additional tax for such converted holdings and the tax should be assessed according to the annual value of such holding.

**Q. 29 & 30.** The number of bargadars and others of the kind is on the increase and due to the factors mentioned in question 30 and to the fact that during the period of economic depression, tenants' lands were sold in auction in the Courts of Justice for arrears of rent and other dues.

**Q. 31.** Majority of bargadars also hold land in raiyati and under-raiyati rights.

**Q. 32.** Yes, the occupancy and other rights should be extended to bargadars.

**Q. 33.** Barga system is not economically sound, conferring of occupancy right on bargadars would prevent its extension.

**Q. 34.** Conferring of occupancy right on bargadars will lead to better cultivation of the land and greater produce and will give bargadars security in the land they cultivate. Zamindars and others will not be in a position to cultivate the so-called khas lands themselves. Hence, there will be no unemployment amongst the bargadars.

**Q. 35.** One-fourth of the produce will be a fair proportion. A maximum limit should be fixed by law.

**Q. 36.** Casual labourers engaged on agricultural works are paid daily wages, annas 4 to annas 5 per day. If they are engaged for a year they are paid Rs. 40 to Rs. 60 a year. Over and above the wages, they are also supplied with food. Their position is inferior to that of bargadars.

**Q. 37.** Yes. Yes. Yes. Yes. This is quite practicable.

**Q. 38.** 6 to 8 acres should be the size of an economic holding.

**Q. 39.** Yes. Yes.

**Q. 40.** Yes. Consolidation of holding is desirable and practicable under co-operative system of farming.

**Q. 41.** Yes.

**Q. 42.** Certainly undesirable.

The limit should be an economic holding. By legislation.

**Q. 43.** Co-parcenary is not detrimental to good cultivation.

**Q. 45.** Yes.

**Q. 46.** No.

**Q. 47.** The framers of the Permanent Settlement at the time of making the Government revenue fixed and unalterable, expected from the zamindars almost a similar permanency and fixity of rent both in the case of tenants then existing as well as in the case of new settlement.

The declaration itself and the Despatch of the Government.

**Q. 48.** The view is supported by grounds (a), (b), (d) and (e).

**Q. 49.** Yes.

Rents should be reduced to the level existing at the time of the Permanent Settlement.

Yes—there are materials in the Collectorate of every district for determining the previous pargana rate.

**Q. 50.** It was a mistake.

**Q. 51.** By legislation.

**Q. 52.** If the Permanent Settlement continue then the pargana rates existing in 1793 should be the principle for determining the rate of rent.

If the Permanent Settlement is abolished the principle of determining the fair and equitable rent should be a certain percentage of the economic rent.

**Q. 53.** None of the above or any principle is followed :—The exacting power of the zamindars and the helpless condition of the tenants are the only factors for determination of rent.

In practice rates differ for lands of similar value and in almost every village and estate.

**Q. 54.** Yes. They do.

Tenancy legislation made from time to time.

**Q. 55.** No.

A tax on land on the basis of economic rent should be assessed on lands for which a new record-of-rights will be necessary.

**Q. 57.** It should be alterable according to the needs of the State from time to time. 25 years.

**Q. 58.** No advantage in the substitution.

**Q. 59.** There is no provision for reduction of rent on the ground that the rent paid by a particular tenant is above the prevailing rate.

**Q. 60.** Yes. The landlord should not get anything.

**Q. 61.** No. The landlord should not get any increment for rise in the price of crops.

**Q. 62.** No.

**Q. 63.** Yes. Because it is not possible for the poor tenants to get any relief through this laborious and expensive process.

Yes, it is apprehended in cent. per cent. cases.

**Q. 64.** There should be a provision in law to reduce the high contractual rents and for limiting rents for new settlements.

**Q. 67.** Yes, it is so.

**Q. 68.** All the Muktagacha zamindars, Gangatia, Atharabari, Dhala zamindars and Dhanbai zamindars.

**Q. 69.** Yes, it was a mistake on the part of the Government.

The tenants have got legitimate grievances against this.

**Q. 72.** The following table will show the cost and produce per acre of the crops noted against:—

| Crop.              | Cost of cultivation. |      | Yield.<br>Mds. |
|--------------------|----------------------|------|----------------|
|                    |                      | R.s. |                |
| 1. Jute .. ..      | 51                   |      | 15             |
| 2. Paddy .. ..     | 24                   |      | 18             |
| 3. Sugarcane .. .. | 200                  |      | 50             |

**Q. 73.** The productivity of the soil is gradually decreasing for the fertilising elements in the soil are being eaten up by crops.

No. Nothing has been done by the Government.

**Q. 74.** No advantage has yet been taken of the provisions of these Acts:—

Reasons are:—(a) The provisions of these Acts have not been circulated to the agriculturists.

(b) The process contemplated by these Acts require much time and is highly expensive.

(c) Unwillingness on the part of the Government to give effect to those provisions.

**Q. 76.** Yes, the Government does realise salami. Government does not invest any money to improve the lands of the khas mahal tenants.

**Q. 77.** Complete overhauling of the land system and change of the Government policy towards the raiyat is immediately necessary.

**Q. 81.** Yes. 25/30 per cent. of the population is surplus in respect of the agricultural needs of the country.

**Q. 82.** Besides means suggested there should be control over birth and provision should also be made for recruitment in the Military Services from this country as well as in the Armed Branch of the Police force.

**Q. 83.** No efficient organisation either Government or private exists for the improvement of agricultural credit.

There should be rural banks financed and controlled by the Government to supply loans at time of need.

**Q. 84.** More than 25 per cent. of the gross produce of the agriculturists goes to the mahajans as interest alone.

By establishing rural banks as mentioned above to give loans on nominal interest.

**Q. 85.** Co-operative societies have totally failed to tackle the credit problem of the agriculturists.

The interest realised by the co-operative societies is high.

No. It has not done any benefit. Because of the ill-management and want of proper propaganda by the employees to inculcate the benefits of the system in the people.

**Q. 86.** The Debt Settlement Boards have only touched the fringe of the agricultural debts.

The Act has got various defects. Some of the main defects are enumerated below:—

(a) Cumbrous and expensive procedure.

(b) The ordinary Boards should be vested with powers of compulsory settlement.

**Q. 87.** Yes.

**Q. 88.** They are not functioning well.

The provisions of granting loans are so very cumbrous and expensive that very few people can get the benefit of this system.

The rules and bye-laws should be modified for easy investments.

**Q. 89.** The machinery provided for realisation of rent through Civil Court is not harassing and cumbrous to the landlords. It is expensive to the tenants.

**Q. 90.** The recovery of rents through the P. D. R. Act is highly objectionable and harassing.

#### **Oral Evidence of the representatives of the Mymensingh Anjuman-I-Islamia, on 23rd March 1939.**

PRESENT ON BEHALF OF THE ANJUMAN-I-ISLAMIA:

- (1) Khan Sahib Nurul Amin.
- (2) Maulvi Abdul Monem Khan.
- (3) Maulvi Samad Ali.

Their evidence was as follows:—

*In reply to Chairman.*—We have revised our opinion and we say no compensation at all should be paid to zamindars or to tenure-holders; because they have already made a great deal of profit. We

would not differentiate between old established zamindaris and newly purchased ones, because it will be extremely difficult to know where to draw the line. Tenureholders and zamindars do not constitute a very large proportion of the population, let us say 2 per cent. They should by now have amassed very much money. If they have not, it is their own fault, and we cannot sympathise with them if they are dispossessed without compensation.

Rents paid should bear a proportion to the produce of the land, let us say 1/5th or 1/6th. We realise that in many parts rents are lower than in others, and they can very well stand enhancement. Other rents which are higher should be reduced to this level.

*In reply to Khan Bahadur Muazzamuddin Hosain.*—In reference to question 3, we know there is a large area of bhil land in our district in Kishoreganj subdivision, Bajitpur and Astagram and other places, an area of approximately 200 square miles and this is subject to inundation. Zamindars have done nothing about it. Some land in Astagram was reclaimed by tenants without the assistance of zamindars or Government. Zamindars have not reduced rents of tenants on account of these floods and so many have become landless labourers. As regards the tax on land, it will be a maximum of 1/5th or 1/6th the produce and will be fixed for certain period and liable to be revised after 5 or 6 years. The actual rate will be assessed in accordance with the demands of the State. This tax will include the Union Board rates, cesses, etc. With regard to the figures given by Government for the yield of land, we think these are too high. In question 45 we think that  $\frac{1}{4}$ th of the produce of the land should be the share of him who sublets to bargadars. We do not consider expropriation to be a communistic idea. We advocate it on the grounds of equity. Zamindars have expropriated the tenants in the past and they made a great profit out of it. So we do not think they can justly complain if the same treatment is meted out to them now. We do not think that granting of occupancy rights to bargadars will mean that they will be evicted, because we will make legislation forbidding land owners from keeping their lands fallow and they would only have the alternative of cultivation by hired labour.

We do not recommend any change in the Muslim law of inheritance as a means to create economic holdings. We consider 6 acres to constitute an economic holding. Any one possessing six acres and all non-agriculturalists will be forbidden by legislation to purchase land. We think that the pressure of population would keep up the price of land.

The cost of preparation of record-of-rights should be borne by the State. The chief cause of indebtedness is the high rate of interest

amounting sometimes to 37½ per cent. which is charged by money-lenders. Neither the Government nor the zamindars have taken any steps to put a stop to this. We do not recommend investing Munsifs with powers under the Bengal Agricultural Debtors Act. The procedure would be expensive, nor do we recommend the employment of revenue officers. We have noticed that the discretion given to Munsifs by the Usurious Loans Act is not being exercised. We think that the present Boards' staff as now with honorary workers will function well if they are given more powers. We do not think that the Public Demands Recovery Act will be harassing if safeguards are given against oppression. This procedure is cheaper than the Munsif Courts.

*In reply to Dr. Mookerji.*—We agree that the zamindars are owners of their estates. We know that the Government of India Act forbids expropriation. If we intend to expropriate zamindars we would not exempt Calcutta property, and we would provide an outlet for agricultural population by employment in the Army, and we advocate popularization of birth control by education.

*In reply to Khan Bahadur Abdul Momin.*—We do not think that the method we advocate for assessment of agricultural tax will be harassing, though we do admit that it will be complicated. We would make the minimum income taxable under our scheme Rs. 300. Union Boards now realize nearly 100 per cent. of their taxes and would easily be able to realize our agricultural tax. We would not object to professional men acquiring land as long as they cultivate it with their own hands or by hired labour. Raiyats who sublet to bargadars will lose their rights, and bargadars will pay direct to the State. We do not think that the restriction of the right of transfer to non-agriculturists will infringe the proprietary rights of raiyats, nor do we think that this restriction will be unpopular.

We would like to stop fragmentation of holdings by inducing heirs to live jointly, but we would not interfere by legislation. Our idea is economic holdings may be created by making use of co-operation in agriculture.

*In reply to Mr. B. K. Roy Choudhury.*—The bhil we mentioned before fell out of cultivation over 20 years ago on account of flooding and water hyacinth. We think people are willing to work voluntarily. By clearing this water hyacinth much success was achieved in Brahmanbaria. We base our criticism on zamindars' action or failure to take action in such matters. As a matter of fact 25 or 30 years ago there was a great jungle which held up the flood water and prevented the passage of water hyacinth. No attempt was made by landlords to prevent tenants from cutting this jungle down. We realise however that some of the causes of flooding in general arise outside Bengal.

At the time of the Permanent Settlement tenants were the owners of land. If the Commission wishes we will give references from books later. We agree that bargadars are not now tenants and have no rights but we wish to alter that and give them tenancy rights. Invalids, minors and widows will be prevented from employing bargadars. They may employ hired labourers. They will be safe in relying upon these for efficient and honest cultivation of their land.

*In reply to question sent by the Maharajadhiraja Bahadur of Burdwan.*—We agree that the increase in the rent roll of Bengal is partly due to the increase in the area under cultivation. If necessary we shall abolish temporary settlements and khas mahal estates as well. We are quite aware that under our system many cultivators would escape the payment of income-tax.

*In reply to Khan Bahadur Hashem Ali Khan.*—In our minimum taxable income of Rs. 300 we would include also all sources of income. We would not tax those with smaller incomes under any circumstances but would meet the State demand by increasing the taxes on higher incomes. We would not agree with power of assessment being given to Union Boards but would employ official agencies. We think that the cost of administration and management under our system would be less than it is at present under the khas mahal system.

There are many cases in our district as also in Bakarganj in which rent suits contain prayers for enhanced rent. Sometimes the enhancement prayed for is as much as 8 annas in the rupee. Extra court-fees are attached in consideration of this prayer for enhancement. We have never heard of a suit for reduction of rent. This is because no tenant is bold enough to fight with his zamindar. We do not think that a zamindar has a right to demand an increase of rent either for a rise in prices or for an increase in the fertility of the land. We do not think that the zemindars have ceased to realise abwabs, and tahuri amounting sometimes to 4 annas in the rupee is demanded before any rent receipt is issued. Payments are credited first to abwabs and after that to the legal demand of rent. We agree that landlords let rents fall into arrears for four years. Tenants who cannot pay one actual instalment will manifestly find it impossible to pay four instalments at the same time. We think it expedient that zamindars should realise their rents every year.

*In reply to Sir Frederic Sachse.*—Raiyats who have sublet will lose their rights and get no compensation. In calculating the taxable produce of the land the cost of seeds and of the agriculturist's own labour will be deducted from the produce before calculating the proportion of one-fifth or less however much it may be or the minimum income of Rs. 300.

The jungle we referred to in connection with the Astagram bhil is composed not of real trees but a kind of reed which grows in water. It is because these have been cut that this land has gone out of cultivation.

If holdings are consolidated much land now covered by ails will then be useable for cultivation. The tenants would also derive an advantage therefrom in that they would not have to walk so far to their land.

*In reply to Mr. Carter.*—The rights we would give to bargadars would not be transferable in any way. We said in question 47 that rents of raiyats inducted on the land were intended to be fixed. We infer this from the Regulation itself as well as from Harington's report. We cannot at the moment give any details of our own pargana rates. They are available in Collector's office.

We agree that it would be possible that families holding incomes of more than Rs. 300 might evade payment of income-tax by partition of their property, but because we find they do not do this when union rate has to be assessed we do not think that very many of them would do this in order to escape income-tax, the incidence of which will, we admit, be much higher.

## Reply by the Anjuman Ettefaque-i-Islam, Nadia.

### **Preamble.**

In the pre-East India Company Period the land system in Bengal was based upon the relationship between the State represented by the King and tenants, i.e., the cultivators of the soil. In the survey made by Akbar the Great the quota of payment by the actual cultivator of the soil was fixed at a certain percentage of the produce and moreover by the ancient law and custom of the land the tenants used to pay to the State for land at a fixed rate, which came to be known as the pargana rate, and the State dues from the land were realised from the tenants on the basis of this rate. For purposes of collection of the State demand from the tenants on account of land, collectors were appointed by the Sovereign authority and these men had no right except to receive a certain share out of the State dues realised. Before the Decennial Settlement this share of the collectors represented only 1/11th of the realizations. These collectors, however, had no right to realize more than the pargana rate. It means, therefore, that so-called zamindars who now claim to be in position of those middlemen of the pre-British period were merely collectors of rent having no powers to enhance the rent, or eject a tenant, etc. When the East India Company took over the Dewani of Bengal and when subsequently, they were just trying to consolidate their power in India they were in need of putting the public revenue on a fixed and permanent basis but for political reasons they did not deem it expedient to come to direct contact with the cultivators of the soil. It was, however, proposed by some eminent men of those days that the interests of the tenants should at first be safeguarded and before settlement be made permanently for due and punctual realisation of the public demand from land, rights, privileges and immunities of tenants should be permanently declared and this should be a condition precedent. But unfortunately this was not to be. Mainly for its own safety and immediate gain the East India Company came to a settlement not with a vast mass of tenantry but with those who were mere collectors and declared them to be actual proprietors of the soil, in return of a fixed sum of money called revenue expressing a pious wish that they should improve the land and deal with the tenants with moderation and generosity.

In making the collectors as actual proprietors of land the tenants were never consulted. Since then in all the land laws that were passed the interests of the zamindars have not only been scrupulously maintained but also have been amplified, enlarged and extended to the gradual curtailment and ultimately to the extinction of tenants' rights

and privileges. There is absolutely no reason, therefore, that the tenants, i.e., the actual cultivators of the soil, who were never a party to such agreement should be expected to be bound by it.

Since the creation of Permanent Settlement a study of the workings of the zamindars of Bengal will show that they were more bent upon giving away their lands in patni settlement, which meant shifting of their responsibility to the shoulders of others. The system of patni settlement actually gave the zamindars enough latitude to do nothing but to have something for themselves. It is apparent that a much larger area of land is now under cultivation in comparison with the area cultivated in 1793, but it is not due to any improvement made by or at the instance of the zamindars. It will be difficult for any zamindar in Bengal to prove that they had out of their own income taken any measure for irrigation purposes or even for clearance of jungles or waste lands. There may be some zamindars who are supposed to have given donations for public and charitable purposes but these gifts did not generate from a sense of duty; neither they were outcome of sympathy towards the tenants but represented only a luxurious state of mind.

Any economic system created for the greatest good of the greatest number at a time when the Government was not by the people and for the people cannot stand when the latter system of the Government steps in. We are now heading towards a democracy which means rule by the people for the people.

The fabric of such a constitution should certainly be different from the previous one. For the regeneration of the country as a whole the contract between the East India Company and the zamindars who subsisted so long must now be replaced by a new contract which will be based on the principle of largest good for the largest number. Under the new regime that body of people who were so long favoured should try to adapt themselves as best as they can.

#### **Q. 1. No.**

Proprietary right to the soil is the exclusive ancient right of tenants. The Sovereign authority or more correctly the Government realised something from tenants in the form of rents of land as a contribution to the State Exchequer for protection of life and property and for administrative purposes. Before Decennial Settlement tenants enjoyed many valuable rights. In this view of the rights of the tenants, the Permanent Settlement made clear encroachments on the proprietary and other valuable rights of the tenants.

#### **Q. 2. No.**

#### **Q. 3. No part at all.**

Entirely. Woeful lack of enlightened self-interest.

**Q. 4.** Before Permanent Settlement they were mere collectors of revenue and certainly never were they proprietors.

**Q. 5.** No; rather it will be restoration of the most valued and ancient rights of the tenants and vindication of bare justice.

Yes. Certainly.

Reasons given in the preamble in a nutshell.

**Q. 6.** Not by a bit.

(i), (ii) Yes.

(iii) Nil.

**Q. 7.** (i) Nil.

(ii), (iii) Yes.

**Q. 8.** No, not at all.

Far from any moderation and generous treatment, systematic exploitation and exactions in various ways—legal and illegal. Entirely and in all manners.

**Q. 9.** Not at all.

All-round improvement of agriculture—the main source of country's wealth—by construction of irrigation works, etc.

That is only one of the reasons.

**Q. 10.** No. It was primarily for political purposes of the then ruling power.

No.

Yes, undoubtedly.

**Q. 11.** Yes, fully.

**Q. 12.** Yes, on all the above grounds.

**Q. 13.** Yes.

**Q. 14.** No compensation.

**Q. 16.** Temporary difficulties to a few rich men which they will be able to tide over within a few years.

**Q. 17.** Yes, at a nominal price or no price if practicable.

**Q. 18.** Total cost for existing and additional machinery would not exceed 25 per cent. of the gross realisations.

**Q. 19.** Yes; under the new regime the morale of the public officers is bound to change for the better. After adjustment of rights the disadvantages of the khas mahals as now complained of will be things of the past.

**Q. 20.** Yes.

Increasing harassment. Enhancement of rents to the point of ruination of tenants and levying of abwabs in various forms and kinds.

**Q. 21.** The rich and upper middle class may suffer a bit for a time but as they have other resources to fall back upon they shall be able to shift for themselves.

**Q. 22.** Excepting that portion of the homestead-land which may be absolutely necessary, all lands of theirs should be taken over by the State.

**Q. 23.** (1) No; (2) existing from earlier period.

**Q. 24.** Yes, certainly.

A proprietor is a tenant who has exclusive right to the soil subject to payment of a certain fixed quota to the State.

**Q. 25.** Occupancy right to the tenant whose chief source of livelihood is cultivation and who either actually cultivates the land or keeps in touch with the actual cultivation of the soil.

**Q. 26.** Both the groups should be given option to resume the lands sublet without any compensation if permissible under the existing law, or on payment of some compensation if necessary, within a specified time; failing which the sub-tenants will be deemed to be occupancy tenants and they will have to pay a lump sum to their landlords once for all and thenceforth hold directly under Government.

**Q. 27.** It was not thought of perhaps.

**Q. 28.** Yes; they should enjoy protection against eviction at the sweet will of the landlord.

Additional premium say 20 per cent. on the present letting value.

**Q. 30.** To a considerable extent; moreover increasing demand of land by increased population both amongst raiyats, under-raiyats and comparatively well-off day-labourers.

**Q. 31.** (1) from 10 to 15 bighas, (2) say 50 per cent. of them.

**Q. 32.** No, except in certain cases.

**Q. 33.** Not sound at all.

By declaring it to be illegal.

**Q. 34.** Those bargadars who have been cultivating khas lands of zamindars will be by law declared as raiyats and will be presumed to have acquired occupancy rights therein until the contrary is shown and in cases where the contrary is shown the particular raiyat will be required to pay four times the annual rent settled for the land as selami to the State.

**Q. 35.** (1) 20 per cent. of the produce: (2) 25 per cent. of the produce.

**Q. 36.** Economic position of bargadars and under-raiyats is slightly better than that of agricultural labourers.

**Q. 37.** Yes, to a certain extent.

Yes, it is prejudicial.

Yes.

Yes it is practicable.

**Q. 38.** 20 bighas (standard).

**Q. 39.** Yes.

Yes, true.

**Q. 40.** Laws of inheritance may be modified to a certain extent by legislation.

**Q. 41.** Yes, by any of the means.

**Q. 42.** (1) Yes.

(2) 20 bighas for a family of 5 persons.

(3) Putting restrictive clauses to transfers.

**Q. 43.** Yes.

No.

**Q. 44.** By legislation.

**Q. 45.** Yes.

**Q. 46.** No, never and not all.

**Q. 47.** Yes.

Not only on contemporaneous documents and correspondences, etc., but also on those previous and subsequent to the Permanent Settlement Regulations.

**Q. 48.** Yes. (Enumerate at the time of oral examination.)

**Q. 49.** (1) Yes.

(2) Pargana rate may be ascertained approximately by reference to old records.

(3) Very difficult to distinguish though.

(4) Reduction of rents as far as practicable.

**Q. 50.** Yes, partially at least as the landlords and not the State allowed to appropriate the enhanced rent in violation of the spirit and tenor of the Permanent and Decennial Settlement Regulations.

**Q. 51.** Yes.

By reduction of rents as far as permissible in the present circumstances.

**Q. 52.** Replies will be given at the time of oral examination.

**Q. 53.** Yes.

**Q. 54.** Yes.

Ignorance, illiteracy and poverty of tenants placed the tenants under serious disadvantages and led to contracts extremely unfair.

**Q. 55.** Yes.

**Q. 56.** 20 per cent. of the nett produce or 10 per cent. of the gross produce.

**Q. 57.** Alterable according to the money value of the produce.

20 years.

**Q. 58.** (a) There may be some advantage.

(b) Yes, it may.

**Q. 59.** (1) Enhancement on the grounds other than improvement effected by or at the expense of the landlord should not at all have been allowed to the landlord.

(2) Presumption that the existing rent is fair and equitable is wrong.

**Q. 60.** Yes.

The State and not the landlord should get a share of such benefit.

**Q. 61.** No; but the State must get the benefit of such enhancement and not the landlords.

**Q. 62.** No.

**Q. 64.** Yes.

**Q. 65.** Shall enumerate them during oral examination.

**Q. 66.** Yes, many.

Yes, they had to dispose of many cases and hence could not and did not pay sufficient attention to each case.

**Q. 67.** Yes.

**Q. 68.** Yes, shall disclose at the time of oral examination.

**Q. 69.** Yes.

**Q. 72.** Jute—12 maunds—Rs. 60; Paddy—24 maunds—Rs. 36; Sugarcane—30 maunds—Rs. 120.

**Q. 73.** Actual experience.

Continuous and predatory cultivation without allowing opportunity for recoupment and non-application of manures and absence of good seeds. Government has done nothing to improve the fertility of the soil. Improved seeds of jute in a very meagre quantity supplied in some years.

**Q. 74.** Stringency of the provisions—apathy of the public officers—ignorance of the tenants and their crushing poverty.

**Q. 77.** Systematic and well-devised plans have not yet been undertaken for the economic betterment and welfare of the cultivators and the raiyats. Land system of Bengal has looked more to the interests of the landlords than to those of the tenants.

**Q. 78.** (a) Rs. 90 (gross); (b) Nil.

20 per cent.

**Q. 79.** No.

Yes.

**Q. 80.** Besides these and above all things primary elementary education must be made free and compulsory for the raiyats.

**Q. 81.** Yes.

50 per cent.

**Q. 82.** Large, medium-sized and small industries in towns and also cottage industries extensively in villages and towns.

**Q. 83.** Rural banks for short-term and long-term loans should be started by Government all over the province. At present no efficient and adequate organisation exists.

**Q. 84.** Yes, more than that.

Establishment of Government rural banks and legislation prohibiting exorbitant rates of interest.

**Q. 85.** Failed.

Yes.

No.

Spirit of co-operation was not instilled into the minds of the rural people: Revitalisation of co-operative movement necessary.

Say 10 to 15 per cent.

Not a very appreciable percentage.

**Q. 86.** Effect of Debt Settlement Boards is shrinkage of rural credit. That is a mere temporary palliative and is likely to prove far worse in its effects in near future.

**Q. 87.** Yes; must and at once.

**Q. 88.** Not efficiently.

**Q. 90.** Yes; very much harassing and ultimately too costly. Rent should be realised through Civil Courts under the Bengal Tenancy Act with suitable modifications in its provisions for speedy realisation of rent, if deemed necessary.

**Q. 91.** Yes.

**Q. 92.** Shall give details during oral examination.

**Q. 93.** Tenant has got only a partial relief. For accrual of better economic effect further amendments benefiting the tenants must be undertaken soon.

Transfer fees were mere windfalls to which landlords are not entitled.

## **Political Parties.**



## Reply by the Bakarganj District Krishak Proja Party.

**Q. 1.** The description is not exhaustive. The Regulation I of 1793 reserves to the Governor General in Council: (II) "to enact such Regulations as he may think necessary for protection and welfare of the defendant talukdars, raiyats and other cultivators of the soil".....by s. 8, clause I of the Regulation.

**Q. 2.** Partially correct. The zamindars must respect the existing rights and usages. But he has full powers to spend money to reclaim waste and jungle lands and choose his own tenants for doing the same for the economic interest of his estate, but cannot override the landlords.

**Q. 3.** Yes. The zamindars have failed to perform their duties imposed upon them by the Permanent Settlement but carried on trades on land by the investment of their capital.

**Q. 4.** Yes. It is correct. The zamindars in the British rule have become perpetual proprietors to the detriment of the interests of the tillers of the soil. The zamindars were never the actual proprietors before the Permanent Settlement.

**Q. 5.** The tillers, the actual owners of the soil, cannot be bound by the pledge between the Government and the zamindars to which they were not parties. Moreover, the zamindars have not fulfilled their obligations imposed upon them by the Permanent Settlement. They have as a matter of fact become capitalists, mostly absentee landlords, now disqualified proprietors, ruining altogether the prosperity of the people.

**Q. 6.** The expectation has not been fulfilled at all. The large increase in the area brought under cultivation is due to the labour and enterprise of tenants only, but not of zamindars. No initiative is known to have been taken by the zamindars nor any pecuniary or other assistance is given by the zamindars.

**Q. 7.** The increase of the rent roll of the permanently settled areas is now 16 crores of rupees, all due to the industry and hard labour and reclamation of waste and jungle lands by the efforts of the tenants alone. It is a patent fact that over and above this 16 crores of rupees, the actual rent-outturn of Bengal, the zamindars realise 4½ crores of rupees as abwabs. Mr. J. C. Jack the late Settlement Officer of Bengal gives a correct estimate of illegal exactions from the tenants by the zamindars of Bengal at the rate of not less than 4 annas per rupee. In the district of Bakarganj Mr. Jack says that 54 lakhs

of rupees is being collected as abwabs over and above the actual collection of 20 lakhs of rupees from the tenants by zamindars. To check this such exaction should be brought under purview of the Penal Code as cognizable offence. The oppression of the tenants in the shape of illegal exactions of abwabs is going on as before.

**Q. 8.** No moderation, no equity and no generous treatment shewn to the tenants by the zamindars as required by the Permanent Settlement.

**Q. 9.** In no cases the zamindars are known to have improved their estates by industry and enterprise. The ancient zamindars, the creatures of the Permanent Settlement are now lost, and their lost zamindaris have been purchased by the moneylenders, bankers, merchants and capitalists, etc., of the big cities of Calcutta and Dacca, etc., mostly absentee landlords, now disqualified proprietors, killing the wealth and prosperity of the people by drainage of money. Absenteeism, the after effect of the Permanent Settlement is a curse to the nation.

**Q. 10.** No. It is never for the interest of the country—rather the contrary. This pernicious system has been engrafted from the long-lost Feudalism of mediæval Europe not suited to the spirit and genius of Asia. It is most unscientific, archaic and undemocratic. The people of Bengal are now tired of this obnoxious, exotic Feudalism and their feudal demands in the shape of abwabs. The sooner the Permanent Settlement is gone the better for the suffering, hungry, dumb millions of population of Bengal. .

**Q. 11.** The tenants of Madras, Bombay, Russia and Italy, where there is no Permanent Settlement are far more happy and contented. No more traffic on lands should be allowed.

**Q. 12.** Yes. We advocate the abolition of the Permanent Settlement on the grounds stated above and below.

**Q. 13.** We advocate the abolition of the Permanent Settlement along with the rent-restrictive legislation in respect of assessment, enhancement of rents and reduction of high rents fixing the maximum rate of rent, at Rs. 3 per acre, a scientific and lawful rent prevalent all over Bengal, (One-eighth of the produce of the land) adopting reduction of high rents. The deficit in revenue, if any, will have to be made up by the imposition of a tax on the agricultural income. We wholly disapprove of the substitution of the system of the temporary settlements in the place of Permanent Settlement. We advocate the

transference of permanency from the landlords to the tenants, real owners of the soil.

**No. 14.** No compensation to the zamindars.

**Q. 15.** Does not arise.

**Q. 16.** System of the nationalisation of property and wealth of the country based on equal distribution on the co-operative principles will be most salutary as in Russia, Germany, etc.

**Q. 17.** Yes. The answers to questions 14 to 16 should be read together with this. The raiyats would have no objection to come under the nationalised State based on the democratic system of equal distribution.

**Q. 18.** No additional machinery would be required. The present machinery will be quite sufficient for the purpose.

**Q. 19.** Yes. Tenants are willing to come under the nationalised State and pay rent to it direct, provided that permanency of raiyats to lands is transferred from landlords to tenants as in Bombay and Madras and high rents are reduced by a way of rent-restrictive legislation in respect of assessment, enhancement and reduction of rent, fixing the maximum rate of rent at Rs. 3 per acre as mentioned above. The khas mahal tenants are far worse than the tenants under the zamindars, all due to rack-renting in all heavily rented areas of khas mahals and also to the stringent pressure of the tyrannical certificate procedure of collection of khas mahal arrears of rents in the most rack-rented areas of khas mahals. These tyrannies will altogether disappear when the nationalised state will be ushered in all over Bengal.

**Q. 20.** Subinfeudation of permanent tenures under the zamindars are off-shoots and after effects of the Permanent Settlement.

**Q. 21.** All property must be a state property based on equal distribution on co-operative basis as in Russia and Germany, etc. This arrangement of property and wealth will enhance the prosperity of the people. The present Bengal is the most backward province of all provinces in commerce, trade, industry, etc., owing to the pernicious system of permanent settlement.

**Q. 22.** Zamindars and tenureholders will remain in possession of their homestead but will be allowed to retain their khas lands that

will be compatible with the means of their living based on the principle of equal distribution.

**Q. 23.** The present occupancy right of Bengal is the creation of the Permanent Settlement, British legislation in India. No such rights existed in the Muslim and Hindu reigns in India. Tillers of the soil were actual proprietors of lands before the British rule in India.

**Q. 24.** We subscribe to this view. People pay rents to the State as a State demand for the protection of their person, property, health, education and for the defence of the realm and for nothing. Traffic in and commercialisation of lands should not be allowed by any civilised State. The word "proprietor" means tillers of the soil, real owners of the lands of the country.

**Q. 25.** We advocate the just land system of continuing proprietary right to the tenant actually cultivating the soils.

**Q. 26.** The actual proprietors of lands, i.e., cultivators may cultivate their own lands or may sublet them as they like partly or entirely having permanent unfettered rights to lands.

**Q. 27.** The Permanent Settlement always favours trade on lands killing agriculturists by giving lands to non-agriculturists, viz., moneylenders, bankers, traders, merchants, capitalists, etc. We never favour of giving occupancy rights to non-agriculturists.

**Q. 31.** Majority of bargadars hold land in occupancy right.

**Q. 32.** This question does not arise as in our opinion there is no intermediate right between the tillers of the soil and the State. For the status of the tillers, *vide* answer to question 24.

**Q. 33.** No. The land is to be enjoyed on rent system. Extension of barga system is to be prevented by legislation, all the raiyats should be placed on the same status.

**Q. 34.** Yes. The zamindars and other capitalists will be actually in possession of khas lands and the bargadars will be converted into landless day-labourer.

**Q. 35.** Question does not arise. Proportion of the money value for it must be so fixed that it may be on a par with the rate of rent payable in cash. To develop a healthy form of produce-sharing,

tenants should be prevented from eviction and assured of an equitable share not exceeding  $\frac{1}{2}$  the share from resulting from their land by means of their own labour and capital.

**Q. 36.** The economic position of the bargadars is worse than that of the under-raiyats. The labourers are paid certain share of the produce from the share of the bargadars as the landlord is to be paid the produce in proportion to the outturn.

**Q. 37.** Yes. By the unrestricted right of transfer given by the Acts of 1929 and by further facility given by Act 1938 withdrawing limitations prescribed in that Act. Considerable areas of raiyati lands have been passing out of the hands of the agriculturist to the hands of the non-agriculturists with such rapidity that there is reason for apprehension that unless the frame work of Bengal Tenancy Act be not remodelled very soon, the agriculturists, the backbone of the country, who are the producer of wealth and prosperity, will be converted into landless labourers as in feudal age in course of a few years.

**Q. 39 & 40.** Yes. Restrictive measures should be taken on the principle of equal distribution and co-operative system.

**Q. 42.** Accumulation of wealth and large areas of lands in one particular hand is not desirable as it is opposed to the principle of equal distribution.

**Q. 43.** No.

**Q. 44.** *Vide* answer to 43. This question does not arise.

**Q. 45.** No compulsion by legislation is now necessary. The present law, Bengal Tenancy Act, is sufficient for the purpose.

**Q. 46.** Enhancement of the rate of rent was contemplated in the Permanent Settlement allowing the landlords to indulge in the obnoxious trade on lands resulting in the present capitalism. By these inequitous arrangements of the Permanent Settlement major portions of the districts of Bengal have now become the most rack-rented areas.

**Q. 47.** Yes. Our opinion is based on the fact that the Permanent Settlement was concluded without undertaking a complete and accurate survey of the lands in the province, of their value and produce, of the state and extent of cultivation, or the nature of the prevalent tenures, of the rights and interests of the Government and

the people. It was a necessity for the security of the revenue. It was only a business transaction carried on by the East India Company on the lines of trade.

**Q. 48.** No such contemplation of giving relief to those tenancies which existed at the time of the Permanent Settlement but the beneficial provisions safeguarded by the fixity of rent are later developments by gradual legislation.

**Q. 49.** No provisions or statutory safeguards as to the reduction of heavy rents in the Permanent Settlement. In view of the rack-renting now prevalent in all heavily rented areas of Bengal one of the most immediate needs of the present moment is the rent restrictive legislation in respect of assessment, enhancement and reduction of high rent fixing the maximum rate of rent at Rs. 3 per acre, and one eighth of the produce of the land, a lawful, scientific rent now prevalent in Bengal.

**Q. 50.** It is a serious mistake committed by the authors of the Permanent Settlement.

**Q. 51.** Yes. It was the intention of the framers of the Permanent Settlement to assess or enhance on the pargana rates. The effect may be given by making provisions in the Bengal Tenancy Act.

**Q. 52.** The principal of produce-rent as in vogue in Hindu and Moslem reign in India should be at once introduced, i.e., 1/8th of the assets of the land to be charged as a State demand after meeting the cost of cultivation and labour per yoke by a cultivator. According to the Hindu system the King's share as in Manu was 1/8th to 1/12th, in later times 1/6th. In the Qoranic Shariat of Islam it is an established principle that raiyats, viz., the tillers of the soils, should pay to the State 1/10th of the produce of the land as State demand and not less and this principle of produce rent was in vogue in Muslim rule in India. In the Moghul reign the lump sum rent was being assessed after the principle of produce rent. But in the British rule it has been made a trade transaction. In the rack-rented areas of Bengal if a tenant after meeting the cost of cultivation and labour pays rent to his landlord, there remains practically nothing for his annual consumption and his other family expenses.

**Q. 53.** No principle of produce rent nor of lump sum rent remains. It has become now the commercialisation of lands, i.e., traders' business as in the regime of the East India Company.

**Q. 54.** It is our bitter and painful experience in the heavily rented areas of Bakarganj as well as of other districts of Bengal that the poorer weaker tenants have to pay the highest rents.

It is due to the mercenary spirit and jealous devotion to the Government that the rent collectors, viz., Khas Mahal Officers and Settlement Revenue Officers have raised the enhancement of rent to their present culmination.

**Q. 55.** The maximum rate of rent by way of rent-restrictive legislation at Rs. 3 per acre as answered in the foregoing questions.

**Q. 55.** One-eighth of the produce of the land after meeting the cost of cultivation, its labour, etc.

**Q. 57.** The maximum rate of rent must be fixed in perpetuity by legislation.

**Q. 58.** Income-tax or agricultural tax but the State demand only as in all civilised states.

**Q. 59.** Present policy of assessment, enhancement and reduction of rent in the Bengal Tenancy Act is most erroneous and unscientific and must be overhauled inasmuch as it is a traders concern promulgated by the East India Company.

**Q. 60.** There may be assessment of rent in the fluvial lands in proportion to the increase of lands at the rate of the rent of neighbouring and adjoining lands.

**Q. 61.** Yes. We object to it, on the grounds given above.

**Q. 62.** In no case we think that enhancement of rent should be given to tenancies which require the whole crop for their consumption.

**Q. 63.** The present statutory provisions in the Bengal Tenancy Act for reduction are very illusory. We object to this ground of enhancement on principle. No consideration has been as yet given to improvements effected long ago at the raiyats' own expenses of advance rent having been paid long ago in the shape of salami.

**Q. 64.** There must be the rent-restrictive legislation fixing the maximum rate of rent in respect of high rents, reducing all contractual high rents to the rate of Rs. 3 per acre, which should be only the lawful rate of rent prevalent all over Bengal as answered in the foregoing questions.

**Q. 65.** The chief defect in the chapter X of Bengal Tenancy Act is want of the rent-restrictive legislation fixing perpetual rate of rent at Rs. 3 per acre as in the case of the zamindars of the Permanent Settlement. The procedure for (a) and (b) is never justified.

**Q. 66.** Yes. We know thousands and thousands of cases of unfair enhancements. They are all due to the mercenary spirit and jealous devotion to the Government of the settlement courts and special judges.

**Q. 67.** Yes, it is true that divisional settlements are usually made with the primary object of the enhancing rent, all due to the mercenary spirit of the Government without seeing to the interests of the downtrodden.

**Q. 68.** Yes. We know a large number of estates where the enhancements were mostly unfair as in Bakarganj and other districts of Bengal.

**Q. 69.** Yes, it is a mistake, an unpardonable mistake, committed by the Government in launching revisional settlements in this period of severe economic distress for 9 years since 1929. Tenants have had just and well-founded grievances.

**Q. 70.** The only reason we find is that there is now no statutory limit in the present Bengal Tenancy Act for the assessment, enhancement and reduction of rent, etc., as there was no statutory limit in exactions of high interests by hard-hearted moneylenders, bankers, traders, capitalists, merchants, etc., in India. All this is due to alien rule and mercenary spirit of rulers.

**Q. 71.** It is absolutely necessary for the public interests of Bengal that there must be statutory provisions in the Bengal Tenancy Act to the effect that the Government should in all fairness grant remissions of rent, not only in the khas mahal estates but also in the permanently settled estates in case the status of the Permanent Settlement be allowed to remain, giving remissions of revenues on the action of these zamindars for the corresponding remission of the rents of sufferers in the areas where test or gratuitous reliefs are opened by the Government of Bengal or by the District Board due to total or partial failure of crops or where famine areas declared by the Government of Bengal.

We advocate no restrictions to the remissions of the revenues and rents of sufferers due to total or partial failure of crops where no test or gratuitous reliefs opened or no famine areas declared. But remissions of revenue or rents should be granted on petitions even by tenants if there is partial or total failure of crops.

It is an undeniable fact that remissions are not given ordinarily in the permanently settled areas and khas mahal areas, reasons being the indifference and want of due considerations by the Government. The existing rules need be improved by statutory provisions in the Bengal Tenancy Act.

But as in our opinion there should not exist two kinds of estates separately, viz., permanently settled zamindari and temporarily settled estates as khas mahal and all estates will have to be merged into one nationalised State, i.e., as the tillers of the soil will come in immediate relation with the State and the consideration of remission will rest with the State only and to give effect to it legislative measure is to be adopted accordingly.

**Q. 72.** The average yield per acre of different kinds of crops, viz., paddy, jute and sugarcane in the district of Bakarganj are as follows:—

| Per acre.       | Yield.             | Price. |
|-----------------|--------------------|--------|
|                 |                    | Rs. a. |
| Paddy .. ..     | 18 mds.<br>(1· 12) | 31 8   |
| Jute .. ..      | 6 mds.<br>(1· 8)   | 17 8   |
| Sugarcane .. .. | ..                 | ..     |

Cost of cultivation and labour—

|           | Rs.    |
|-----------|--------|
| For Paddy | ... 17 |
| For Jute  | ... 22 |

**Q. 73.** Yes, productivity is on the decrease due to want of proper manuring and deposit of sand and silt from the rivers and canals. Bakarganj is river district known as network of rivers.

Failure of crops is presently due to floods, usually drought and sometimes excessive rains.

No steps have been taken up till now by the Government towards improvement of the fertility.

**Q. 74.** The provisions of the Bengal Land Improvement Act, Bengal Sanitary and Agricultural Improvement Act and the Bengal Rural Development Act have not been given effect to nor any improvements of the lands of agriculturists made, due to indifferent attitude of Government.

**Q. 75.** Very nominal amount is spent for the interest of khas mahals and not so for the interest of the tenants. Lands are being

reclaimed through the tenants and heavy charges imposed in the shape of salami and other kinds eventually along with the assessment and enhancement of heavy rents.

**Q. 76.** Yes, since 1905 or so in the district of Bakarganj.

No portion of the salami is being spent for the improvement of the land. Salami is realised in the shape of feudal demand.

**Q. 77.** The inequitable, erroneous rent assessment and enhancement policy of the Government of Bengal is responsible for the uneconomic condition of the raiyats having brought about the total ruin of commerce, industry, trade of the province. These defects will be, in our opinion, cured by the nationalisation of State based on equal distribution of property wealth of the country on the principle of co-operative system.

**Q. 78.** (a) The average income of tenants in a permanently settled area after meeting cost of cultivation, labour of (*vide* answer to question 72) and paying rent, etc., to the landlord, is Rs. 5 per year. In the temporarily settled area condition of the tenants is most horrible, average rate of rent there per acre is not below Rs. 8. So the net income of the tenants under khas mahal is nil. Rather they have to incur heavy debts for their maintenance. It is not uncommon that the tenants in most cases are subjected to cruel oppressions and tyranny by the Khas Mahal Officers and the rent collectors.

(b) In certain portion of the district the tenants derive poor income from cocoanuts, betelnuts, etc.

Percentage of cultivating raiyats maintaining themselves and their family from their income is nil. Every family is half-fed being heavily involved in debts.

**Q. 79.** The present system and organisation of the maintenance of land record is not satisfactory. Statutory provisions should be effected for the entry of the names of the heirs and assignees and other transferees of the tenants on their death, transfers, etc., as the case may be.

**Q. 80.** (i) to (v) Approved.

**Q. 81.** Yes, increase of population is one of the causes of the poverty of the agriculturists. 9 bighas of land, i.e., 3 acres at least are necessary for the subsistence of a man. But as the land is not available, the suggestions given in answer to question 80 together with the establishment of State industries and factories are only means for the increase of income of the cultivating raiyats.

**Q. 82.** Organisation of State factories and industries.

**Q. 83.** We advocate the improvement of agricultural credit by establishing rural agricultural banks on co-operative lines.

No such efficient agriculture exists.

**Q. 84.** Yes, we quite agree to the view. The annual drain by the mahajans can be stopped by the composition of the payment of the debts by the State securing repayment by the State organisation of the co-operative societies as in Madras, Norway, Sweden, etc. The Norway system is considered the best system in the world.

**Q. 85.** The present co-operative system has proved an utter failure in Bengal. Instead of tackling the audit problem of agriculturists it has increased only the indebtedness of the agriculturists. Such societies have become only the moneylending mahajans and the present system should be overhauled altogether.

**Q. 86.** The present Act is defective, all urban and rural financial credit and confidence have been lost, causing a dead lock to the money-lending transactions. The Bengal Agricultural Debtors Act must be amended.

**Q. 87.** Yes, *vide* answer to question 84.

**Q. 88.** Answer to question 89.

We do not know of any function performed by Land Mortgage Banks.

All banks should be organised on the co-operative principles as answered above.

**Q. 89.** Yes, it is costly and cumbrous, expensive, unnecessary and harassing to the tenants.

**Q. 90.** Yes, the Act ought to be repealed altogether and recovery of rents should be through the Bengal Tenancy Act.

**Q. 91.** The Sunset Law and all old Regulations must be repealed to be replaced by the Bengal Tenancy Act which is to be amended according to the exigencies of the time.

**Q. 92.** Answered in question 91.

**Q. 93.** Landlords' fees have been rightly abolished, as they are now relics of feudalism. So the loss need not be considered.

**Oral evidence of the representatives of the Bakarganj Krishak Proja Party.**

*10th March 1939.*

**PRESENT ON BEHALF OF THE PARTY.**

Syed Habibur Rahman.

Babu Debendra Nath Ghosh.

Syed Abdus Sattar.

In reply to the Chairman, Maulvi Habibur Rahman said that the Permanent Settlement should be abolished and the zamindari system must go without payment of any compensation. The raiyats, by which he meant the tillers of the soil, should have proprietary rights. He would give such rights to the tillers of the soil whether they are raiyats or bargadars. He would give full rights of ownership and free transfer. He agreed that many holdings are small and uneconomic and that free transfer will tend to make them still smaller. There should be some restriction on the right of transfer. Holdings should be 3 acres in size and the tenants should not be allowed to transfer if as a result the area becomes less than three acres. The rent should be Rs. 3 per acre as the maximum and the basis should be one-eighth of the net produce, i.e., according to the figures in question 72, the value of paddy per acre is Rs. 27, the cost of cultivation is Rs. 17 and the rent should be one-eighth of the balance of Rs. 10. Rent should be fixed in perpetuity, in the same way that the zamindar's revenue is fixed. He thought that the resulting revenue would be greater than the present revenue. All tenureholders should also be turned out without compensation. It might be true that this would destroy the middleclasses but all great changes in history have not been effected without a revolution. He regarded tenureholders as merely brokers on land. He wanted to prevent any sub-letting by statute. He thought that if the cultivators came under a nationalised State, all agitation against the payment of rent would disappear. The barga system is a relic of feudalism and should be abolished. Bargadar's rent should be commuted and fixed at a maximum of Rs. 3 per acre.

In reply to Sir F. A. Sachse, he said that he is a member of the Bar and holds land as a zamindar, tenureholder and a raiyat. The cultivation is looked after by his brothers. He sometimes employs bargadars to cultivate his land. They pay him three-fourths of the crop and receive one-fourth. He would not propose that his own bargadars should be given occupancy rights. Sir F. A. Sachse pointed out that he had previously recommended such rights for all tillers of

the soil. He replied that the custom regarding bargadars varies from district to district. Bargadars may have rights in western Bengal but they have no rights in Bakarganj. He admitted that his own bargadars are cultivators who supply plough and cattle.

Maulvi Abdus Sattar said that he also cultivates through bargadars who receive one-fourth of the produce. Sometimes his bargadars supply seed and cattle, and sometimes he supplies them. The bargadar does all the work of cultivation. He is better off than an agricultural labourer, and a raiyat is still better off than a bargadar. A bargadar on one-fourth share would get 15 maunds of paddy from 10 acres—he might not be able to live on that amount.

Maulvi Habibur Rahman said that the real owners at the Permanent Settlement were the zamindars. The tenants at that time had no rights and legislation has only given them bogus rights. Asked if he would be prepared to pay anything for the proprietary right in his own land, he admitted that tenants have now got some degree of proprietary right.

In reply to the Chairman, he agreed that by restricting transfer, he would be taking away something from the rights of the occupancy raiyats but he thought there must be some sort of restriction.

Continuing to Sir F. A. Sachse, he said that raiyats now sell their lands because there is no restrictive legislation. He agreed that they might also sell because they need money to pay their debts. He agreed that it would be to the benefit of the raiyat if the value of land goes up.

In reply to the Maharajadhiraja Bahadur of Burdwan, Babu Debendra Ghosh said that the Bakarganj Krishak Proja Party contains 75 per cent. Muhammadans and 20 per cent. Hindus—this is the communal proportion of the district population. Originally the whole population of Bakarganj consisted of Hindus.

Maulvi Habibur Rahman said that the landlords have effected no improvements whatever. They have only showed tyranny and oppression to their tenants. So far as his knowledge goes, no landlord in Eastern Bengal has done anything for his tenants. Some landlords might have given donations to schools, hospitals, etc., but the money which they gave belonged to the tenants. He maintained that the tenants in Madras and Bombay are better off than the tenants in Bengal. The people of Bombay have more money and are more enterprising. The reason for this is that there is no Permanent Settlement. He admitted that he had not been to Madras or Bombay and could not say what rates of rent prevailed there. He said that when the Permanent Settlement was enacted, the tenants were not a party to it. He did not agree that any compensation should be paid, as is now paid when Government acquires any property under the Land Acquisition

Act. Asked whether the tenants in khas mahals are not already under a National Government, he replied that the present Government is not fully democratic. He agreed that the Government might be called national in so far as the Ministers are elected. He did not approve of State landlordism and would not have the whole province as a khas mahal.

The Secretary enquired who would collect the rents under nationalised State. He said that it would be collected by the Collectors of districts. Sir F. A. Sachse asked whether a nationalised State should take away all the lands in Calcutta. He replied that every piece of land should belong to the man who lives on it and owns it. He was in favour of taking away lands from persons who own more than the average amount of land and giving it to people who are landless. The Secretary enquired whether the idea of ancestral property is not so ingrained in the country that this proposal would be impractical. Maulvi Abdus Sattar agreed. Babu Debendra Ghosh thought that the nature of the people is such that they would be unwilling to part with their ancestral property.

Continuing to Maharajadhiraja Bahadur, he said that the East India Company might have based the Permanent Settlement on the existing land revenue system as they found it then, but they were a band of traders actuated by business motives. Asked what was the meaning of the reply to question 46 that landlords have indulged in "an obnoxious trade on land", Maulvi Habibur Rahman said that the Permanent Settlement has resulted in speculation on land. Many zamindaris have changed hands and have been purchased by capitalists. Maulvi Abdus Sattar agreed that tenants have also carried on trade in land but said that many of them are moneylenders. Babu Debendra Ghosh explained that by trading on land, he referred to purchases by landlords of their tenureholders' or raiyats' lands. He agreed that some rights have been given to tenants by the Rent Act and by subsequent legislation but legislation has not protected them against the tyranny of zamindars. He said that Khas Mahal Officers had made enhancement of rents simply in order to obtain promotion and had ruined the tenants. He considered that in some cases zamindars are less oppressive and in others more oppressive than khas mahals. He said that the Nawab Bahadur of Dacca is a most tyrannical landlord.

In reply to Mr. B. K. Roy Chowdhury, he said that it is his personal experience that the landlords have done nothing to bring waste land under cultivation (he is 40 years old). He agreed that owing to the famine of 1770, the population was greatly decreased at the time of the Permanent Settlement and that there was much fallow land at that time. He maintained, however, that the landlords have done nothing to extend cultivation.

In reply to question 7, the figure of 16 crores has been taken from the Government Statistics (he refers presumably to the Cess Valuation). Including abwabs, the landlords' collection in the whole of Bengal would be 25 crores. The tenants do not ask for redress against the realisation of abwabs because they are dumb. Major Jack, he said, had reported the scale of abwabs in course of his enquiries for the whole of Bengal. He did not agree that the incidence of rent in Bengal is lower than in other provinces. He could give no figures for the incidence of rent or the average value of produce in other provinces. He said he only believed in the right of private property in so far as personal property is meant. Babu Debendra Ghosh agreed and Maulvi Abdus Sattar said that he believed in private property. Compensation would be payable for the loss of personal property. He did not agree that, by replacing the present system of peasant proprietors holding on fixed rent, the effect will be a second Permanent Settlement. He maintained that Bengal is industrially behind other provinces. In reply to the Secretary, he said that Central Provinces and Bihar are industrially ahead of Bengal.

Mr. B. K. Roy Chowdhury then asked him to explain the apparent discrepancy between the statements that lands should be equally distributed (question 21) and secondly, that cultivators should be allowed to sublet freely (question 26). He explained that subletting should be restricted to agriculturists.

In reply to the Secretary, he did not agree that the Moghul Government demanded up to one-third of the share of produce.

*11th March 1939.*

Babu Lal Mohan Sen appeared in addition to the representatives examined on 10th March 1939.

Maulvi H. Rahman drew attention to an article written by himself in a paper called the "Krishak" on 27th May 1938 in support of his statement that according to Todar Mal's revenue system 1/10th of the produce was realized by the zamindars who paid 1/4th to the State. He also referred to Major Jack's Settlement Report to show that abwabs in Bakarganj amounted to Rs. 20 lakhs.

In reply to Khan Bahadur Hashem Ali Khan, he said that landlords have done nothing to improve their estates. Reclamation of jungle lands in Bakarganj was made by the tenants themselves by the sacrifice of their lives and labour. The large bil area in the north of Bakarganj adjoining Faridpur and covering 5 thanas is mostly under water in the cultivating season, and the tenants have to pay rent although the

produce is very small. The area can be reclaimed by excavating a few khals and constructing a few embankments. Neither Government nor the landlords have done anything in spite of 8 years' agitation. People in that area live on fishing generally and are subjected to floods almost annually. The landlords are mostly absentees, e.g., the Nawab of Dacca, the zamindars of Narail, the Lahas, and Bhuyas of Daca. They did not visit the villages in their estates even last year when there were floods, and gratuitous relief had to be given. The condition of people living in the khas mahal char lands is horrible: there is rack-renting, and crops are damaged by drought and floods. Government may spend money on embankments but it is very little. Between 1920 and 1930 many landlords brought suits for enhancement of rent and were granted enhancements between 3 annas and 6 annas in the rupee. No suits had been brought by tenants for reduction because they feared oppression.

No compensation should be paid to the landlords because the Permanent Settlement was a contract made between the East India Company and the landlords: the tenants were no party to it. The landlords must be penalised for the oppression on their tenants.

The Chairman enquired whether the case of the zamindars at the Permanent Settlement should be regarded on the same footing as that of persons who have invested money in zamindaris in more recent times. Babu Debendra Nath Ghose replied that the latter class of zamindars have already made sufficiently large profits and Maulvi H. Rahman said that these were all speculations in lands which must be stopped.

Continuing to Khan Bahadur Hashem Ali Khan, Maulvi H. Rahman said that various kinds of abwabs were realised. He referred to nagar salami, which used to be realised by selling widows of the Namasudra class to the highest bidders. This system is now abolished. Abwabs are however still realised for marriages and sradh ceremonies of members of zamindars' families.

In reply to the Chairman, he said that the tenants have not the courage to complain against these illegal exactions because they fear oppression. He said that they are still paying abwabs on the same scale as before.

In reply to Khan Bahadur Hashem Ali Khan, he agreed that the amount of abwabs has now been reduced. Tahuri is paid at the rate of 1 anna and mohuriana from 1 anna to 4 annas per rupee. At least 4 annas per rupee is paid as abwabs. The amlas in the zamindari estates do no grant rent receipts properly with the object of keeping a hold over the tenants. Some landlords even take security bonds for the good behaviour of their tenants. Khas mahal tahsildars also realize-

tahuri. In the paddy season they come in boats owned by the ferry men and carry off paddy from the tenants by force.

The average rent in the permanently settled area in Bakarganj is Rs. 4 to Rs. 10 per acre. (According to the Settlement Report the average incidence of rent of the whole district is Rs. 4-8.) He agreed that in diara mahals temporary settled proprietors get 10 per cent. to 20 per cent. of the actual collections. (The invariable rule is that temporary settlement proprietors should get not less than 30 per cent.)

The Colonization Department should be abolished and the area should be brought under khas mahal without any extra expenditure.

The tenants who reclaimed jungle lands in the temporarily settled colonization area were afterwards turned out on account of competitive salami. In reply to Sir F. A. Sachse, he explained that he was not referring to the Gourkati Settlements in char areas. In reply to Khan Bahadur Muazzamuddin Hosain, he said that tenants had taken 5 years' jungle cutting leases on the expiry of which they were unable to pay salami on settlement. Tenants under the tenureholders and raiyats in the khas mahal area are paying exorbitant rents. The rates are from Rs. 20 to Rs. 30 per acre. (The Secretary pointed out that under section 48B, Bengal Tenancy Act, the rent of an under-raiyat cannot exceed 1/3rd of the estimated produce.) In many cases settlements of large areas have been made with amlas of the Civil Court and the Collectorate. (Sir F. A. Sachse pointed out that there might have been a few cases of this nature long ago, but the practice is forbidden by the rules issued by the Board of Revenue.)

The soil is decreasing in fertility owing to want of irrigation. There are openings for industrial development such as cocoanut oil and fibre, salt and sugar factories.

He agreed that if the Permanent Settlement is abolished there will be a decrease in litigation.

In reply to Khan Bahadur Muazzamuddin Hosain he agreed that tenants will have to pay the State demand even if the Permanent Settlement is abolished but he held that abwabs would disappear and that tenants would cease to be oppressed. The collection of rents would be satisfactorily managed under a nationalised Government. He agreed that rents in Madras might be much higher than in Bengal but said that tenants in the khas mahals there are happier than in the zamindari areas.

As regards the reply to question 13 he explained the meaning is that he advocates the abolition of the Permanent Settlement and also advocates rent-restrictive legislation. He agreed that if all the land in Bengal is distributed equally, the agricultural population might get

.82 of an acre per head and that it would be necessary to divert part of the population to other avenues such as industry. The land in the khas possession of the landlords should be confiscated and given to the labourers.

With regard to question 26, he said that a tenant who has sublet should not have any right in that land, and that after lands are nationalised, transfers to non-agriculturists should be stopped by statute. The maximum area which he would allow any cultivator would be 9 bighas and persons holding that area should not be allowed to purchase more land.

He agreed that some bargadars have acquired occupancy rights and should be given such rights. Most bargadars in Bakarganj hold lands as occupancy raiyats. He agreed that land is passing out of the hands of actual cultivators and recommended that transfers should be restricted to agriculturists. The increase in the number of transfers is due partly to the shrinkage of agricultural credit. For this the Bengal Agricultural Debtors Act and the unrestricted right of transfer are responsible.

He agreed that one reason for the tenants' inability to pay rent is that holdings are becoming uneconomic.

The payment of salami should be altogether stopped.

He was not in favour of enhancements on the ground of fluvial action or rise in prices.

As regards the reply to question 72, Khan Bahadur Muazzamuddin Hosain pointed out that there are some inaccuracies in the figures. If the outturn of paddy is 18 maunds an acre and the price Rs. 1-12 per maund, the value should be Rs. 31-8 instead of Rs. 27. The price of jute has been shown as Rs. 1-8 per maund which is unusually low: Maulvi H. Rahman agreed that this was a mistake and that the price should be Rs. 3 instead.

Neither Government nor the zamindars have done anything to improve the fertility of the soil. Government should encourage migration to West Bengal where 33 per cent. of the area is still lying fallow.

Babu Lal Mohan Sen said that in Norway the co-operative system is that the land is distributed by Government according to the needs of the people so that the profits are shared by all.

He thought that productivity of land should be increased by a scientific system of agriculture.

He could not suggest any amendments to the Bengal Agricultural Debtors Act, but agreed that debts should be compulsorily settled and that certificate procedure might be exercised by the Civil Courts. He thought however that the certificate procedure is harassing and should not be in the hands of administrative officers but should preferably be entrusted to munsifs. He agreed that 99 per cent. of the civil suits are decided *ex parte*, and therefore thought that certificate procedure might be exercised by the Civil Court.....

In reply to Dr. R. K. Mukherji, Maulvi H. Rahman said that the Bakarganj Proja Party was formerly affiliated to the official Proja Party but now has revolted and is an independent body.

The causes of the cultivators' present condition are:

Firstly, the excessive rent which varies from Rs. 4 to Rs. 30 per acre.

The tenants at the bottom of the scale pay Rs. 20 to Rs. 30 whereas the average value of produce in Bakarganj is Rs. 25. Generally, rent is 80 per cent. to 90 per cent. of the gross produce. Dr. Mukherji explained that the average incidence of rent in Bengal is Rs. 3 per acre and is admittedly lower than in any other province in India. If that is so Maulvi H. Rahman agreed that it is not the land system which is to blame for the present condition of the cultivators.

Secondly, he agreed that small holdings are a primary cause of the present economic conditions and that they have become uneconomic through over-population and the laws of inheritance. These have got nothing to do with the land system of the province. He suggested migration to Assam or western Bengal.

Maulvi A. Sattar said he was in favour of altering Islamic laws of inheritance.

Thirdly, he agreed that cultivators in Bakarganj are out of work for six months in the year. This fact is not due to the existing land system. Government must develop industries, preferably cottage industries, because people will be unwilling to leave their homes for industrial areas. He suggested the development of spinning, weaving, cocoanut oil and fibre, salt and sugar industries in particular.

Fourthly, he agreed that another reason for the present economic condition of the cultivators is the low level of prices of agricultural produce. For this also the land system is not to be blamed. He agreed that better marketing facilities are needed. As regards the suggestion that rents might be paid either in cash or kind, Maulvi Abdus Sattar said that this system might work and that in Bakarganj there is a small percentage of tenants who now pay rent in kind.

He agreed that nothing has been done for agricultural improvement and that the fertility of the soil is gradually decreasing due, among other reasons, to non-excavation of dying khals. Government must come forward with a programme of agricultural improvements.

He agreed that cultivators are extravagant by nature and often incur debts for social reasons, but said that they are now poorer and, for the last four or five years, have been unable to borrow.

Rack-renting prevails over the whole district. Rent is fixed for whole holdings whether they contain fertile or unfertile lands. Babu Lal Mohan Sen explained that in the char areas there is a tendency for tenants to take settlements on too high rents which they cannot ultimately pay. In the estate of the Nawab of Dacca many holdings have been made khas. Dr. R. K. Mukherji pointed out that this might be so but the holdings under the Court of Wards management are resettled with other tenants.

Maulvi H. Rahman agreed that if according to their proposal all the zamindars, tenureholders and non-cultivating raiyats are removed, it would be necessary to prepare a fresh record-of-rights in each district and this operation might cost as much as Rs. 6 crores. He thought however that this money would have to be paid.

As regards the figures showing the outturn and value of crops in the reply to question 72, he said that the value of paddy per acre should be Rs. 31-8 and that rent at Rs. 6 an acre would be about 1/5th of its value. On the figure given for the price of jute, the cost of cultivation is higher than the price of jute. The figures do not contain an estimate of income derived from other sources. He said that the average sale price of lands is as follows:—

1st class land—Rs. 150 to Rs. 250 per bigha.

2nd class land—Rs. 80 to Rs. 100 per bigha.

3rd class land—Rs. 25 to Rs. 50 per bigha.

**Reply by Maulvi Abul Quasem, M.L.A., Secretary, Nikhil Banga Krishak Proja Samity.**

The vast and comprehensive field covered by the questionnaire makes it impossible to deal with it in all its aspects and the question arises how our views in relation thereto can be best formulated. Personally speaking, I am not disposed to enter into antiquarian researches concerning the history of the land laws of Bengal from the most ancient times up to the present day, because I feel that no fruitful purpose will be served unless practical suggestions are given to remedy existing evils however they may have originated.

I would therefore try to answer those questions only which have some practical bearing.

The questions which I would like to answer in this connection are as follows:—

**Q. 3.** I do not think the landlords have done anything to improve the economic development of the country. They have simply offered unoccupied lands to intending cultivators whose number increased enormously during the first part of the last century and the land previously uncultivated were brought into cultivation but not really through their agency. They had opportunity for rack-renting converted themselves into rent receivers and have failed to perform the functions expected of them at the Permanent Settlement.

**Q. 9.** Please see answer to question 3. As the effect of absenteeism in the early part of the last century, digging and cleaning tanks which had come to be regarded as an official obligation of the zamindars during the Muslim regime continued by force of habit and tradition rather than as a legal obligation to be performed by the landlords; but when they started congregating in cities like Calcutta and thus lost touch with local conditions, the many-sided luxury of the capital extinguished those other beneficial activities.

**Q. 10.** Whether the Permanent Settlement was economically good or unavoidable at the time does not appear to me material; but judging from present results I have not the least doubt in my mind that the masses have not been benefited, rather the country—so much so that something more or less drastic will be called for to make the situation tolerable. Neither landlords nor tenants by themselves have been able to keep the land from deteriorating, not to speak of improving it.

**Q. 13.** The Permanent Settlement is in any event utterly out of date and unsuited to present conditions. This question seems to assume that beyond increase in the realisation in the shape of rents nothing else

has happened. Are the lands the same in quality and quantity? How much of the increase goes into the pockets of the zamindars and how much now represents income upon which a substantial portion of the increased population (not zamindars) subsists? Unless the nature of the land available for use by cultivation or otherwise and the pressure of population it is called upon to bear are ascertained by a proper scientific survey, no useful purpose will be served by eliciting uninformed opinion on questions of this nature.

**Q. 19.** The Government at any rate is in many ways a better landlord than a general run of private landlords. But the khas mahals are part and parcel of the entire system of landholding and land using in the province, which appears now to be rapidly heading towards widespread general soil deterioration and soil impoverishment at least in West Bengal, which at present it is nobody's business to prevent or remedy.

**Q. 22.** If the first big step should in fact be determined upon the other questions are matters of minor importance which will not offer insoluble difficulties.

**Q. 25.** I am in favour of confining occupancy right to the tenants actually cultivating the soil including bargadars, adhiars, bhagchasis. Drastic measures should be taken against sub-letting system. Sub-letting for more than 2 or 3 years must be held to be a ground for forfeiture of his (lessor's) occupancy right. Tenants will have occupancy right in so much of their holding which can be tilled by him. Cultivation of land by one's own toil must be the criterion of occupancy privilege.

**Q. 29 and 30.** Yes; middle-class have left their villages and let out their lands in barga. The reason suggested in question 30 appears to have contributed more or less to this effect.

**Q. 32.** As bargadars are the cultivating raiyats and not the persons under whom they hold as bargadars, occupancy right should accrue in their favour to the exclusion of the latter. In my opinion it will prevent sub-letting system to a great extent.

**Q. 37.** Yes; by the Act of 1929 and by the Act of 1938 great facilities have been given to non-agriculturists to acquire considerable areas of raiyati lands unless Bengal Tenancy Act is remodelled in this respect, cultivating raiyats will be converted into bhag paying tenants-at-will.

**Q. 41.** Special facilities should be given to the cultivators to consolidate their holding by exchange, purchase, pre-emption, etc., and by other more scientific means to be devised.

**Q. 42.** Much valuable information bearing on this question can be procured from the Punjab Government where the restrictions

against the selling of agricultural lands to non-agriculturists have been at work for many years.

**Q. 52.** I think this is the most important question of the present day. It is agitating every mind and much can be said on this important question. Old pargana rates, i.e., rates at which tenants could be found to take lands are now extinct. Tenancy Legislation from 1859 (Rent Act) onwards have modified this conception of rent. Having regard to the physical condition of Bengal I am of opinion that economic rent is undefinable. I am averse to borrowing ideas current in other provinces to solve local problems specially when we do not know how those principles themselves originated. There should be an inadequate survey of land, produce, tenants' requirements, risks attending on their business of cultivation profits to be reasonably expected from different orders of lands and so on before any solution of the question of fair and equitable rent will be in sight. The law in the Bengal Tenancy Act would not have worked hardship on the cultivators if the enhancement and reduction of rent had not been left to the very expensive (prohibitory to most tenants) machinery of law courts.

**Q. 53.** Majority of rents are lump rents based on competition for lands, agricultural development of the soil and the status of the tenant still rates differ greatly for similar lands for traditional reasons.

**Q. 71.** I believe that rules regarding remission are very little observed in practice at least in West Bengal. I think the machinery should be so modified that the Government would be aware of the necessity of remission and take action therefore without being moved in the elaborate manner pre-supposed by the rules.

Average yield in my district (Hooghly) per bigha is Rs. 16. The cost is Rs. 13-8 approximately and therefore the profit per bigha is Rs. 2-8.

|   | Rs. a.      |  | Rs. a.      |
|---|-------------|--|-------------|
| Paddy, 8 maunds at<br>Rs. 1-12.         | 14 0        | 4 ploughs at annas 12 each                               | ..          |
| Straw 12 pons                           | 2 0         | Labour—  | 3 0         |
| Total                                   | <u>16 0</u> | 3 for sowing   | ..          |
| Less expenses of cul-<br>tivation, etc. | 13 8        | 2 for transplanting                                      | ..          |
| Net balance                             | <u>2 8</u>  | 3 for shearing   | ..          |
|   |             | 2 for carrying   | ..          |
|   |             | 3 for threshing  | ..          |
|   |             | 13 heads at 6 annas per head                             | 4 14        |
|   |             | 1 plough for preparing ground for<br>sowing at 12 annas. | 0 12        |
|   |             | Paddy seed   | 0 6         |
|   |             | Cartload of manure-soil, includ-<br>ing cartage,         | 1 8         |
|   |             | Rent for one bigha                                       | 3 0         |
|   |             | Total ..   | <u>13 8</u> |

**Q. 80.** I approve more or less all the suggestions, but they should not be regarded as exhaustive.

**Q. 83.** Establishment of agricultural banks controlled by the Government.

**Q. 87.** Yes.

**Q. 90.** It is harassing. Rent can be recovered under the provision of the Bengal Tenancy Act.

Tenants are generally good pay-masters. They do not withhold rent if they are able to pay. Certificate procedure acts harshly on them. In Civil Court he gets some respite and he can make settlement with landlord. But in case of certificate procedure the feeling between the Khas Mahal Officer and the tenant becomes more and more bitter.

## **Miscellaneous.**



**Reply by Mr. A. C. Gupta, Advocate, High Court.**

Generally speaking, I do not desire to deal with questions which are mainly enquiries as to past history of the land revenue and tenancy legislation of this province. So far as that history is clearly and definitely known it needs no inquiry through any circulated questionnaire. So far as that history is doubtful and controverted I apprehend that the answer would not turn so much on historical truth and accuracy, which it may be difficult to establish beyond controversy, but on sympathies of people on one side or the other. But I take this attitude principally for the reason that I do not think that this past history should to any considerable extent affect the present policy of the land revenue and tenancy legislation. This should depend almost exclusively on what may be necessary and beneficial to the nation at the present time and in near future.

**Q. 11.** (i) It is difficult to feel sure what the statement really means. Certainly 80 per cent. of the total produce of the land does not go to the zamindar. If the statement means that 80 per cent. of the rent paid by the cultivating raiyats goes to the zamindar, I am not sure about the percentage. But it is clear that between the zamindar and the middlemen is absorbed a very high percentage of the rents paid by the raiyats.

Therefore I do not think that this criticism, if it really means what it says, is justifiable.

(ii) I am of opinion that as a natural result of the security given by the Permanent Settlement against enhancement of revenue it would have a tendency to encourage subinfeudation. But I do not think that this is the only cause of subinfeudation of tenancies in the province. So long as land can be used as capital which would give profit without labour subinfeudation would occur.

(iii) I do not think that the permanency of the revenue demand by the Government has led to enhancement of raiyati rents. It is difficult to see why the Permanent Settlement should lead to that effect. *Prima facie* the effect would be in the contrary direction. The expectation expressed in paragraph 6 of the Permanent Settlement Regulation as to the effect of "the public assessment being fixed for ever" on the demands of the zamindars on the raiyats has to a certain extent been realised. In any event I think that the pressure on the raiyats would have been far greater had the land revenue demands been not fixed as made by the Permanent Settlement.

**In my opinion this criticism is not justifiable.**

(iv) If by a system of overlordship is meant subinfeudation of tenancies, it is true as already pointed out in answer to (ii), but mere subinfeudation would not have any appreciable tendency of increasing the harassment and oppression on the actual cultivators.

If the question really means that the zamindari system, permanent or temporary, is harassing and oppressive on the cultivators because they have a landlord of their tenancies, the question is not capable of a simple answer. The cultivators at the time of Permanent Settlement being poor and unorganised did suffer acts of harassment and oppression at the hands of many of their landlords.

But this harassment and oppression had nothing to do with the Permanent Settlement of the land revenue. I am opinion that had the Settlement been temporary the harassment and oppression would have been far greater. I am not sure that there is not here some confusion between the zamindari and the Permanent Settlement.

**Q. 12.** The abolition or otherwise of the Permanent Settlement is a matter to be judged by considerations more fundamental than the grounds set forth in question 11.

**Q. 13.** I think it is clear that as a result of the Permanent Settlement the zamindars absorb a large percentage of the rents paid by the raiyats. If to the income derived by the zamindars be added the profits derived by the middlemen from the rents paid by the raiyats the percentage of the raiyati assets absorbed by the zamindars and the middlemen would be considerable. I cannot be sure as to the exact amount thus intercepted.

Of the three methods suggested for increasing the revenue of the State by taking to itself a larger proportion of the raiyati assets than at present I am of opinion that the only course which would be practicable at present is the third suggestion, viz., the imposition of a tax on agricultural income. This method of income-tax on agricultural income in order to be workable and just should be a tax on all agricultural income above a certain minimum figure which would exclude actual cultivators of poor and moderate income but would include the zamindars and prosperous middlemen and those who would go in for farming on a large scale, as also cultivators making income above the specified minimum.

As regards suggestion (1), viz., the total abolition of the zamindari system I cannot advise such a course at the present moment. The chief reason which weighs with me is the present condition of the agriculturists of Bengal. They are so illiterate, poor and unorganised that direct settlement with the State, which could only be worked by

innumerable petty Government officers, would lead to acts of oppression against which the cultivators would be more helpless than at present in their dealings with the officers of the zamindars. I am of opinion that the cultivators should be made literate and more organised before they are brought in direct contact with the State. If and when income-tax is levied on agricultural income it is hoped that a considerable portion of the money realised by the State should be spent for the education and organisation of the agriculturists.

As regards the second suggestion, temporary zamindari settlement of land revenue is a measure to which I am definitely opposed. The evils of such a system are well known and in fact constituted one of the reasons for substitution of the Permanent Settlement in place of temporary settlement. Such a system would inevitably lead to oppression of the agriculturists.

Abolition of the zamindari system without the liquidation of the middlemen would be meaningless. And whatever may be theoretically neat it would not be possible in practice simply to expropriate the zamindars and middlemen. The compensation to be paid to this vast body would require a very considerable sum of money, whatever may be the exact amount, and it would without a doubt form a charge on the public revenue of the province in the shape of bonds. It may sound a little Machiavelian, but I would advise a levy of income-tax on agricultural income also for the reason that it would reduce the nett profit of the zamindars and the middlemen to a reasonable figure, and in future it would be possible to buy them up at a lesser cost.

The ultimate aim should doubtless be not to allow any one to exploit labour on land simply by using the land as capital.

**Q. 16.** By the State purchase of the zamindaris (and I would include middlemen's interests) the social structure of Bengal may be expected to undergo some alteration. The educated middle class, which means professions and the Government offices will not undergo much change. A proportion of the savings of this class no doubt is now invested in land, i. e., in zamindari or tenureholder's interest. But this investment has already become unremunerative and would in any case practically cease in no distant future. The cultural progress of the province depends at present on this class. And there is no reason to think that the proposed purchase would very seriously affect the position of this class. It can be expected that the savings of this class would seek investment in industry and commerce, and the abolition of the system of investment in zamindari would almost certainly lead more activity in the industrial sphere. The zamindars at present play no important part in the cultural life of the province. The respect which is still paid to them is merely respect to wealth and to tradition.

But, after all, reaction in human society to changed circumstances is not according to any definite physical laws. It depends on men's volition. There does not appear much to apprehend that society in Bengal will fail to readjust itself to this new economic condition.

**Q. 25.** I am of opinion that the tenant actually cultivating the soil, however low his position might be in the heptarchy of tenants, must have occupancy right secured to him. The proposal of confining such occupancy right to such cultivators only is one of great practical difficulty. A person may begin by actually cultivating his tenancy and properly becoming an occupancy raiyat and then ceasing to cultivate it either wholly or in part by letting out to another raiyat. An attempt to deprive him of occupancy right in the whole or part of his tenancy would require a complicated legislation and may lead to profitless litigation.

I am therefore of opinion that occupancy right should at least be given for the present to more than one tenant.

**Q. 26.** It is the difficulties of legislation and its practical working which this question indicates that have led me in answer to question 25 to suggest that occupancy right should be granted to more than one grade of tenants.

**Q. 27.** I cannot find anything in the Permanent Settlement Regulation on which any definite opinion about the intention of the Regulation in the matter can be based.

But I think that occupancy, i.e., non-ejectable, right should be given to tenancies of the nature indicated in the fourth exception of section 37 of Act XI of 1859 (the Bengal Land Revenue Sales Act).

**Q. 28.** There is no reason why protection to cultivators should persist in land converted to non-agricultural purpose except the practical difficulty of getting rid of tenancy right originally purchased or acquired. But I think that additional tax should be levied on such converted holdings and the basis of the taxation should be the present market value of the land.

**Q. 29.** This is a matter of statistics. I have not materials on which I can definitely say whether the number is really on the increase or not.

**Q. 30.** If as a matter of fact the number of bargadars, etc., is really on the increase, the factors mentioned in 1, 2 and 3 would logically have a tendency to contribute to such increase. The question of deciding in what proportion the supposed increase may have been caused by these factors is a matter of still more difficult statistics and I am not in a position to give any opinion.

**Q. 31.** I do not think that the first part of the question is capable of any definite answer as the area held by different bargadars varies enormously.

I am not in a position to say whether the majority of bargadars hold also raiyati or under-raiyati tenancies but undoubtedly many bargadars do so.

**Q. 32.** The use of the term "bargadar" is not free from ambiguity.

When a person allows another to cultivate his land in return for a share of the crops contributing nothing to the production of the crops, he is merely a landlord of the land and receives the agreed share of the crops merely because he is the owner of the land. Though this is really letting out the land to a tenant at rent in kind, this system is sometimes called "barga". I think that in these cases the reality should be recognised disregarding the names, i.e., the so-called "bargadar" should be recognised as a tenant and right of occupancy and other rights of a tenant should be extended to him and right should be given to either party to have the rent commuted to money.

The barga system is properly so-called when the person owning the land contributes some other factors to the production of the crops than merely the supply of the land, e.g., contributing the seed or the plough and the other costs of cultivation in whole or in part. In such cases, the system should really be looked upon as a partnership between the owner of the land and the bargadar for the production of the crops. Having regard to the backward and unscientific condition of agriculture in our province and also to the illiteracy and poverty of the actual agriculturists, encouragement should be given to such partnerships for actual cultivation and production of crops as would invite or at least make possible for men with means and intelligence to join with actual agriculturists for production of crops. In such barga cultivation the respective rights of the parties should be regulated by the law of partnership modified so far as may be necessary by the special needs of the case.

**Q. 33.** In answering question 32 I have already expressed my opinion that the so-called "barga" system which is really a name of tenancy at a rent in kind has no economic foundation whereas the genuine barga system, viz., partnership for production of crops, is economically sound and deserves extension.

It has already been pointed out that the first class of co-called barga system should be abolished by making bargadar a tenant in all respects.

**Q. 34.** In answer to question 32 the difficulties raised in this question have already been met. I think, as already pointed out, that distinction should be realised between two actually different systems

going under the common name of "barga". When that distinction is realised and appropriate legislation made for the two different kinds of relations, no difficulties would remain unsolved.

**Q. 35.** With respect to what has been called previously "so-called barga" there is no reason why, generally speaking, such bargadars who are really tenants should pay more than usual rents for such lands.

With respect to barga in the sense of partnership as explained above, it may be necessary to lay down principles on which profits are to be divided between the respective parties. Obviously the proportion would vary considerably according to the nature, terms and other conditions of partnership.

**Q. 36.** So far as it is a matter for statistics, I have not got sufficient materials for any satisfactory answer. But I desire to point out that wages of agricultural labourers vary considerably in different years and in different parts of the province and it may not be possible after all to make any satisfactory comparison with the position of bargadars and under-raiyats.

**Q. 37.** Right of unrestricted transfer given to an agriculturist must, as a matter of course, lead to the passing of some raiyati lands into the hands of the non-agriculturist. Whether as a matter of fact as the result of the Act of 1929 considerable areas have so passed cannot be determined without actual statistics. But I desire to point out that previous to the Act of 1929 non-transferability of raiyati holdings only meant transferable with the consent of the landlord, and that consent could with very few exceptions be purchased by payment of nazar to the landlord. Instances of landlord not recognising the transferee because the latter was a non-agriculturist did not occur possibly in one instance out of one thousand. I therefore do not think that the law in force before 1929 was a bar to raiyati lands passing to the hands of the non-agriculturists or that the Act of 1929 as also the Act of 1938 have made that tendency to any extent greater than in the past.

I am of opinion that it is not now possible to take back the right of unrestricted transfer given to the raiyat or that any such attempt would be wise or politic. I am further of opinion that it is neither desirable nor practicable to restrict the transfer to the agriculturists. This will only lead to a restricted market and hence inadequate price to the needy raiyat. The remedy, so far as there is any, is always to secure occupancy and other rights of a tenant to the actual cultivator to whom the non-agricultural purchaser lets out the land for cultivation.

**Q. 42.** I think that in the present stage of agriculture in our province scientific cultivation of large areas under one control should be encouraged and at present it is not necessary to put any restrictions to the maximum limit of such areas.

But if the evil which is indicated in the question means that raiyati holdings would be acquired by one person, not for the purpose of large scale scientific farming, but for merely using the land as landlord and at the same time depriving the actual cultivators of the rights of a tenant, I think, as already pointed out in answering questions 25 and 32, that the remedy lies in giving right of occupancy and other rights of a tenant in all cases to the actual cultivator.

**Q. 43 and 44.** Coparcenary by leading to fragmentation of agricultural tenancies is certainly detrimental to good cultivation. But I do not think that any practical remedy can be had by mere legislation. The real remedy is to demonstrate to the cultivators the beneficial effect of cultivation of economic holding. I think that if such demonstration be convincing the cultivators themselves would be willing to provide themselves with such economic holdings on voluntary basis. In such condition, special facilities may be provided for consolidation of holdings by exchange or otherwise, as contemplated in question 41.

**Q. 45.** I think that the question really means "arrangement for collection" by a common agency. A tenant is not bound, unless he has agreed to do so, to pay rent separately to co-sharer landlords. The tenancy is one so far as he is concerned and he is only bound to pay the whole rent jointly to all the co-sharer landlords.

This necessarily compels the co-sharer landlords to arrange for collection of rent jointly.

If the question implies that the tenants' contract to pay rent separately to the co-sharer landlords should not be made binding on them and that all separate collection of rent by co-sharers which obtains at present should cease, I do not think that there is any evidence of the evils of such separate collection being enormous and I think past contracts by tenants should not be interfered with.

**Q. 46, 47 and 48.** (i) If by the term "contemplated" used in questions 46 and 47 and by the term "meant" used in question 48 what is asked is a question of the legal interpretation of the Permanent Settlement and connected Regulations, I think that it is not possible, according to ordinary canons of legal interpretation, to deduce the conclusion that the Regulations legally barred the rights of the zamindars to enhance the rents or rate of rents payable by tenants at the time of the Permanent Settlement. For if that was the intention, meaning thereby intention expressed or necessarily implied by the words used, of which only law can take notice, nothing would have been easier than to say so definitely in the Permanent Settlement Regulation itself. On the contrary, the language of Article 6 of the Permanent Settlement Regulation by expressing "hope and expectation of the Government of the good faith and moderation of the zamindars

towards the tenants" is not consistent with legislation in bar of enhancement of the rents then being paid. Further when Article 6 speaks of the benefit to the zamindars of enjoying "exclusively the fruits of their own good management and industry" it does not appear that it was excluding the idea of getting more as rent from lands already let out to tenants.

Article 7 of the Permanent Settlement Regulation reserved the right of the Government to make laws "for the protection and welfare" of the various grades of tenants. That right of the Government was expressly reserved, as the article itself says, "to prevent any misconstruction of the foregoing articles". This is a reasonably clear indication that the Permanent Settlement Regulation itself did not by its own provisions secure the rights of the tenants to hold at the rent or rate of rent at which they were paying at the time of the Permanent Settlement.

Subsequent legislation providing for restrictions against enhancement of rents at the discretion of zamindars proceeded not on the footing that by demanding increment of rent zamindars were violating any terms of the Permanent Settlement, but on the footing that the Government was exercising the right for protection of the tenants which it reserved in the Permanent Settlement Regulation itself. There is nothing clear and undisputed to show that this view of the Government on its subsequent legislation was wrong.

From section 6 or section 50 of the Bengal Tenancy Act, which come into the Act from sections 3 and 4 of Act X of 1859, it will be unreasonable to conclude that the legislation made the rent paid at the time of the Permanent Settlement unalterable because the rent was unalterable at the date of the Permanent Settlement. The alternative view is the more reasonable, viz., that rent which remained unalterable for such a long period should not be allowed to be disturbed. Indeed it is an application of the same principle by which a contract for fixity of rent at the origin of the tenancy is presumed from payment at an unalterable rate from a long time. As a matter of fact it was merely a legislative device for securing fixity of rent to old tenancies held at an unaltered rate. The presumption of the continuance of the tenancy from the Permanent Settlement from only twenty years' occupation at an unaltered rate was obviously not one of logic but of legislative policy.

(ii) If the question asks what the framers of the Permanent Settlement Regulation hoped and expected as a result of their policy, the matter is entirely historical and, in accordance with the view expressed at the beginning of my answer to the questionnaire, I do not desire to discuss the matter. But I wish to re-iterate the view that it is not by

settling questions of disputed history that the present policy of agrarian legislation of Bengal should be settled. It should depend to some extent on the existing law on which the expectations and anticipations of the present generation of landlords and tenants are based and to a very large extent on what is required by the necessities of the present and future welfare of the country as a whole.

**Q. 49.** I think that in discussing and settling the question of the proper and reasonable rent which the tenant should pay at present it is irrelevant to consider the "intention of the framers of the Permanent Settlement". The question itself in its various parts sufficiently indicates the impracticable nature of going back to the Permanent Settlement for the purpose of adjusting the rents payable by the tenants at the present time. The grievance which the tenants feel as to their rate of rent relates to the pressure which they feel at the present time, viz., an economic grievance and not the historical grievance that the rent which was really unalterable at the time of the Permanent Settlement has been since altered against the provisions of that Settlement.

The last part of the question is better answered in connection with the answer to some of the latter questions, specially questions 52 and 56.

**Q. 50.** Already dealt with in reply to questions 46 to 48.

**Q. 51.** I do not think that there is any solid foundation for the supposition. But I am further of opinion that the question of rate of rent to be paid at present of what was waste land and what was tenanted land at the time of the Permanent Settlement should be answered from the same point of view of what is fair and equitable at present. There should be no distinction in the question of rate of rent at present fair and equitable on the ground that the land was tenanted or not tenanted at the time of the Permanent Settlement.

**Q. 52.** I think that the following principles should be applied in determining fair and equitable rent in Bengal:—

- (i) The rent should not exceed a proportion of the price of the crops (taking average of a fixed number of years) minus the cost of cultivation (taking an average).
- (ii) The rent so fixed should not be enhanced on any other ground except that contemplated in section 30 (C) of the Bengal Tenancy Act, viz., the improvement in the productive powers of the land wholly or partly at the expense of the landlord.
- (iii) Any further readjustment of rent due to agricultural prosperity or the necessities of the State should be left to future which can only be expected and hoped to be a distant future.

**Q. 53.** So far as one can see the present current rent started from a sort of customary rent and has been affected, considerably in some parts of the country, by competition depending on the great demand for land growing crops of high money value.

On whatever area basis rent might have been fixed at the origin, at the present time the majority of rents are treated as lump rents when they come before courts of law.

I think that though there might be exceptions for special reasons the rates are practically the same for lands of similar value in the same locality.

**Q. 54.** If it is a question of last settlement, it does not appear that poorer and weaker tenants would take settlement at a higher rent than the richer and the stronger ones. Rather the contrary would seem to be the case. But it is possible and is probably the fact that when the landlord tries to enhance the existing rent the poorer and hence weaker tenants are more easily induced to agree to enhancement than the richer and therefore the stronger ones.

The factors mentioned in question 53 have really fixed the existing rents in Bengal. But these factors have varied considerably according to economic and other circumstances.

**Q. 56.** I have already expressed my opinion in answering question 52 that fair and equitable rent should be based on a share of the produce.

Without proper statistics being collected as to the value of the agricultural produce in Bengal and what revenue has necessarily to be raised from this agricultural produce, it is difficult to give any definite answer as to the "proportion". I think that if it can be avoided the rent should not exceed  $\frac{1}{4}$  the price of the nett produce, i.e., the price of the gross produce minus the costs of cultivation assuming that the tenant bears all costs of cultivation.

**Q. 57.** This question has already been answered in replying to question 52. See answer (iii) to that question.

**Q. 58.** It seems that the question assumes the abolition of the zamindari and the subordinate tenures leaving the State to raise revenue from agricultural lands directly from cultivators. I desire to point out that apart from the consideration indicated in the second part of the question the elaborate enquiry which would be necessary every year to find out the assessable income of each agriculturist, the majority of whom are illiterate and incapable of filing a proper return, would make the whole scheme impracticable and oppressive if sought to be introduced in the present state of the country.

**Q. 59.** The question is very general in its character and is really particularised in questions 52 and 60 to 64. My answer to this question is to be gathered from my answers to the questions abovementioned.

**Q. 60.** In answer to question 52 the view on which I have proceeded is that the benefit of all unearned income should go to the cultivator and that therefore there should be no enhancement of the rent except on the ground that the productive powers of the land have been increased wholly or partly at the expense of the landlord. In expressing that view I have been guided by the consideration that it is the cultivator who is the sole instrument in production of wealth from the land and his economic status is the worst of all.

The question of "fairness" or otherwise in such matters depends to what is the standard of fairness to be applied. If it is only meant fair according to existing law it has no particular meaning for under the present law he does not get all the benefit. But if the standard of fairness is the remuneration of labour there appears to be nothing unfair in giving the cultivator the entire benefit, considering the small return which he gets from his labour and the fact that he alone does everything to raise crops from the land.

**Q. 61.** My answer to question 60 indicates my view with regard to question 61. Rise in prices is an unearned income and the same considerations which would apply to enhancement of rent on the ground of fluvial action will also apply to enhancement of rent for rise in prices.

**Q. 62.** The kind of consideration suggested in this question in determining the enhancement of rent is impossible of practical application.

**Q. 63.** The policy should be to adjust rents throughout the province on reasonable basis having regard to the necessities of the cultivators and requirement of revenue by the State. Under these conditions if some rents have to be enhanced on application of what is fixed as the principle for adjustment of rent the result cannot be avoided. As I have suggested raising of revenue by levy of income-tax on agricultural profits I do not recommend abstention from enhancement of rent when necessary for reasonable adjustment of rent.

In adjusting reasonable rent improvements effected at the raiyat's expenses or payment of advance rent by the raiyat should certainly be taken into consideration. There should be no reasonable grounds for apprehension that adjustment of rent should be carried out without any regard to these considerations.

**Q. 64.** In answering question 52 I have expressed my opinion that rent should not exceed a fixed proportion of the average nett produce. From this it follows that if necessary on that principle there should be provision for reducing high contractual rents and for limiting rents for new settlements.

**Q. 65.** The question is too general to admit of any satisfactory answer.

As already indicated I am of opinion that rent should be adjusted throughout the province on a reasonable basis fixing the maximum to be a proportion of the nett produce. Chapter X of the Bengal Tenancy Act, in settlement of rent, does not proceed on such principle and is defective from that point of view.

**Q. 66.** I have again to point out that unfairness has to be judged by a definite standard of fairness to be applied. If by unfairness is meant economically burdensome, the poverty of the Bengal cultivators is such that in most cases any enhancement is economically burdensome and hence unfair. But if the question really means whether within the present framework of law enhancements under section 105 were given with any bias against the raiyats my experience is on the whole to the contrary. As a matter of general rule the Settlement Officers have exercised the discretion given to them under section 35 in favour of the cultivating raiyats and the special Judges have seldom interfered with such exercise of discretion.

**Q. 67.** It is difficult to say what object is primarily in view of the Government in making revisional settlements, but as a matter of fact the revenue is always enhanced by such settlements.

**Q. 68.** In recent times enhancements of revenue of temporarily-settled estates have been as a general rule made by very big jumps over the existing revenue. If that fact is considered to be unfair, the enhancements have been generally unfair. But I am not quite certain what standard of fairness in enhancements the question is assuming.

**Q. 69.** It is quite obvious that if rents are enhanced during fall in prices it would give rise to grievance which cannot otherwise be described than as legitimate.

**Q. 70.** I can only think that the variation is due partly to the original rate of rent being fixed more or less on customary basis and partly to the difference in demand for land owing to local conditions due, e.g., to transport facilities and other circumstances.

**Q. 77.** The present uneconomic condition of the cultivating raiyats of Bengal is due generally to two factors: (i) the primitive method of cultivation which is still being followed resulting in a production

which is ridiculously low in quantity and quality compared with the standard of other civilised countries, and (ii) the unbearable pressure on land owing to non-development of modern industries and destruction of old handicrafts. Neither the "general policy of Government" nor "the land system of Bengal" ever concerned itself with this aspect of the cause of the uneconomic condition of the raiyats. The general policy of the Government and the land system of Bengal are responsible for the present condition of the raiyats in this sense that any positive policy for improvement of agriculture and organisation of the land system with a view to such improvement would have prevented the present uneconomic condition.

As to the question what "modifications" of the policy of the Government or the land system are necessary to remove the present uneconomic condition of the cultivators I desire to emphasise that no mere change of the land-laws giving the raiyats better security to their rights in their tenancies or relieving them from the excessive burden of the present or enhanced rents would to any appreciable extent better their present hopelessly uneconomic condition. Far greater effort on the part of the Government and the nation than mere passing of such legislation is necessary to better the condition of the cultivators, which is in one sense, is bettering the economic condition of the whole country. It is necessary to substitute the present primitive mode of agriculture by modern scientific methods and the land system of the province should be changed according to the necessities of the introduction of such modern methods of agriculture. It is needless to say that provision for marketing facilities inside the country and in the world market must go hand in hand with improved agriculture and pressure on the land must be reduced by the introduction both of large-scale and of cottage industries. I think that any attempt at short-cuts can only lead to futility and disillusion.

**Q. 80.** I have generally answered this question in answering question 77.

**Q. 81.** I have already indicated my view in answering question 77, that in the present state of agriculture of the province the pressure of population on the land is one of the main reasons of the poverty of the agriculturists. The question of surplus population in respect of the agricultural needs depends on the method of agriculture. In modern methods of scientific agriculture a smaller population than at present would produce more and would support a larger population than is done at present in Bengal. If the question seeks an answer as to what percentage of men could be removed from agriculture without deficiency in labour in the present state of agriculture in Bengal the matter is one of elaborate statistics and I cannot venture any guess.

**Q. 82.** Pressure will be relieved by more agricultural production as also by taking off people from land to other avocations, e.g., industry. The industries may be large as well as small. I do not find any reason to suppose that the only means to take off people from the land is by taking them "to large industries in Government aided factories." Unaided private factories large and small, if successfully worked and home industries, if properly organised, would do as well and perhaps better. If the industry be of a nature which cannot or ought not to be started by private enterprise, such factories should of course be started by the Government and may no doubt employ part of the surplus agricultural labour.

**Q. 83.** There is no efficient organisation, Government or private, from which the agriculturist can get loans on reasonable terms. I do not think that the co-operative credit societies have to any considerable extent met the necessities of the real agriculturists. These societies have largely been inefficient and not always honest in their management. These co-operative societies have been practically the only Governmental institutions for providing agricultural credit. Generally owing to the defective organisation and unsatisfactory personnel the experiment has not proved to be a success. Better result may be expected by organising these societies on stricter basis and with the help of men commanding confidence of the people by their reputation of efficiency and honesty. I regret to have to say that in the past more often than not management of these societies has been entrusted to men possessing so-called "loyalty" which generally meant people who seek to be in the good graces of the executive authorities in the hope of benefiting their private affairs.

But I think that until the agriculturists are more solvent than at present no system of giving them credit could be ultimately successful and the present methods of agricultural credit can only be of a tentative and palliative nature with a view to save the cultivators from utter insolvency.

**Q. 84.** I have no statistical data on which this question is based. I can only say that a very high per cent. of the gross produce the agriculturists pay as interest to the mahajans.

To reduce the rate of interest at present paid by the agriculturists on their loan better credit must be organised as to which I have given a general answer in answering question 83.

**Q. 85.** I cannot add anything helpful to what I have already said in answer to question 83.

**Q. 86.** I am of opinion that the Debt Settlement Boards under the Bengal Agricultural Debtors Act, 1935, have dealt with problem of

agricultural debts by practically ruining the agricultural credit of the province. In my opinion the Act should be repealed. The system of setting up Debt Conciliation Boards should be abandoned and the problem of reducing and adjusting agricultural debts should be left to the ordinary law courts for solution after laying down general principles for reduction and adjustment of such debts by disallowing high rates of interest and allowing proper instalments and providing for simpler methods of agricultural insolvency.

The problems of this Act I dealt in some details in an address delivered last December as President of the All Bengal and Assam Lawyers' Conference. I sent a copy of that address, where this matter is dealt with.

These general remarks, vague generalities if you like, bring me to an Act of our provincial legislature, with whose pricks and pranks we are now familiar. I am referring to the Bengal Agricultural Debtors Act of 1935. I am one of those who are in deep sympathy with the object of this legislation. The crushing indebtedness of the agriculturists of Bengal requires lifting and that without delay. Not only do they form the majority of the population of Bengal, but they are the producers of practically the whole wealth of our province, and which we all divide. All schemes of national welfare are idle so long as this vast mass of our countrymen has to live a life which is scarcely human. Their grinding poverty of body and mind must be removed, and the first requisite is to relieve them from the unbearable burden of their present debts. I know credit for them has to be provided for, but that must be on conditions not murderous. But all talk of sanctity of contract in this connection seems to me to be mere cant. Anyhow nothing is more sacred than humanity itself. And if the relief of agriculturists' debts presses somewhat heavily on other classes of the population that has to be borne, for in our agricultural country none are more deserving than the agriculturists.

But look at the way in which the legislature goes about its task. The Act lays down no principles or guiding rules for determining the proportion of reduction of debts, or for granting instalments. Best endeavours are to be made to induce the parties to arrive at an amicable settlement, as if, if men were so reasonable as that they would not have already settled their affairs. The Act therefore does not aim at reducing the debts of the Bengal agriculturists on any rational basis which would apply throughout Bengal. There is no enlightened economic policy as to the proportion of the agricultural debt which needs cancellation. Everything is uncertain and nebulous, and what is amazing is that the administration of this uncharted measure is entrusted to assemblies or Boards with no training in the difficult art of deciding

disputes of men. To be able to do without the guidance of rules is the result and reward of protected training in the application of rules. The object of this legislation can only be satisfactorily realised by laying down general principles for reduction and settlement of debts and entrusting the ordinary law-courts of the land for applying and carrying out those principles. And if large discretion has to be given, it must be given to those only in whose hands it is safe, viz., the judges of the country. But law-courts and lawyers are anathema to the makers of this law. It would have been surprising and highly gratifying if in our country, where literacy is the exception and illiteracy the rule, men of sufficient ability, not to speak of probity, could be found for filling the hundreds of Boards which have been set up throughout the countryside. But unfortunately one cannot reap where one has not sown. To keep the country illiterate and then to expect that it would be able to supply throughout the country laymen educated enough to run these Boards with even moderate success is to expect the impossible. And the natural is happening. There is no use hiding the truth that confidence in these Boards scarcely exists anywhere. We all must have come across section 34 notices the issuing of which seems to be the chief business of these Boards, in which the chairman appears just able to scribble his signature. Of the incompetence of these Boards, take only one illustration. It has become an open scandal that persons who were never contemplated as entitled to the benefit of the Act have succeeded in inducing many of these Boards to take them under their protection. But why? The Act is clear enough whom it is meant for. But still, if it is grievously misapplied, it can only be stupidity or worse, and the civil court has no say in the matter. It is evident that if these Boards, the majority of whose members are practically uneducated, continue to be entrusted with the task of reducing the agricultural debt of Bengal, the whole attempt will be brought to utter discredit, and the greatest sufferers will be the agriculturists themselves. Entrust the measure to the ordinary courts of the country and it will work successfully. I do not know whether it is thought democratic to set up judicial tribunals of untrained men, but a democracy which does not know its own limitations makes a nuisance of itself and builds the highway for fascism.

**Q. 87.** If the Government finds it practicable, the system would be extremely satisfactory if the Banks are placed under efficient and honest management. How far it will be possible for the Government to find money for the purpose I am not in a position to express any opinion.

**Q. 88.** I have no detailed knowledge of the functioning of the land mortgage banks to give a satisfactory answer. But generally speaking the banks or loan offices which lent money on mortgage of

agricultural lands, from raiyati holdings to zamindaris, are now practically bankrupt owing to heavy fall in the price of such lands.

**Q. 89.** It is true that the method of realisation of rents by suits is both costly and cumbrous and also harassing and expensive to the tenants. But I apprehend that any summary methods, e.g., distress or certificate procedure, would lead to greater harassment and oppression of the tenants. I think that the method of suits is under the circumstances a necessary evil. But the procedure of rent suits and rent executions should be made as simple and inexpensive as possible and the present procedure can be considerably modified with that end in view.

**Q. 90.** This question has already been answered in answer to question 89.

**Q. 91.** I am of opinion that the old Regulations and Acts dealing with the revenue law should be repealed and replaced by Act or Acts making simpler and up to date provisions.

**Q. 92.** The question is too general to admit of any satisfactory answer.

**Q. 93.** It is obvious that by abolition of transfer fees and the zamindars' right of pre-emption the income of the landlords would be reduced. But the market price of the tenants' holdings would be enhanced.

I cannot give any estimate independent of the statistics given in Statement No. XIV of the List of Statistical Abstracts supplied by the Commission.

**Reply by Rev. Victor J. White, of the Australian Baptist Mission.**

**Q. 1.** In my opinion the Permanent Settlement placed a weapon in the hands of the zamindars for destroying the rights of the people who are tenants as they existed at that time. From personal knowledge of the locality in the Netrakona subdivision it is quite evident that the zamindars have destroyed large taluks which were formerly in the hands of the aboriginal peoples. These taluks were reduced to jote holdings, and later jote holdings have been broken up and turned into produce rent holdings purporting to give no permanent right in the land.

**Q. 2.** The Permanent Settlement certainly gave extensive powers for regulating the use of the land and an opportunity to improve the economic conditions of both themselves and the people.

**Q. 3.** The Permanent Settlement secured the zamindar against increase of contribution for revenue, but did not secure the tenant against enhancement at the will of the zamindar. The zamindar for the most part continued as a rent collector, increasing his gains; but did not fulfil the hopes of those who framed the Permanent Settlement, that is that they would be benefactors of the tenants, improving their land.

**Q. 4.** Before the Permanent Settlement, the zamindars were rent collectors and not proprietors of the soil. They date their permanent right in soil from 1793.

**Q. 5.** The Permanent Settlement sold the birth-right of the people, and it is doubtful whether any Act or Government has the right so to do in perpetuity. That a pledge was given cannot be denied but however we are clear that it was an error, and now self-government has come into force all our weight should be thrown into the argument that there is no point in such self-government if it must be bound by every error as well as by every sound doctrine of its predecessor.

**Q. 6.** The Permanent Settlement did not encourage zamindars to extend cultivation by their own initiative, it encouraged them to increase their income from the legitimate labour and pioneering spirit of the peasant class from whom they exacted the regular rents. The pressure set up by increase of population accounts for the extension of cultivation in areas formerly covered with jungle. Here again it was the enterprise of the tenants who braved the terrors of the jungle to bring it under cultivation. The zamindar does not seem to have spent his own money for effecting such improvements.

**Q. 7.** Practically the whole increase in value has been created by the community and it is this unearned increment collected in the form of rent that largely explains the large increase in value, from the time of the Permanent Settlement, viz., 3 crores compared with present valuation which may prove even more than 16 crores as stated. One may quote the statement of Sir Michael O'Dwyer concerning the Punjab which may just as easily be said of Bengal:—

"We took over the Punjab in 1840. It had an area of 80,000,000 acres of which 12,000,000 only were under cultivation. The average value was then 5 shillings per acre. There were no roads, railways, and canals. In 1920 as the result of security, railways and canals 30,000,000 acres are under cultivation and 12,000,000 acres irrigated at an average of £25 per acre. Thus the capital value of land has risen in 70 years of British rule from £8,000,000 to £750,000,000."

It would be interesting to have a similar statement concerning the increase in land values of Bengal.

**Q. 8.** I do not consider that this expectation has been fulfilled in practice. My experience among aboriginal people shows land has been alienated in contravention, even of recent acts such as chapter 7(a) of the Bengal Tenancy Act indicates the extent to which equitable and generous treatment has not been meted out to the people. This statement has its support in facts and figures and cases on record since the partially excluded area of Mymensingh has been set up.

**Q. 9.** The Permanent Settlement evidently did not impose any specific duties upon the zamindar. It gave them a free hand to hand over their estates to less responsible people while they themselves could live in luxury elsewhere, without keeping contact with the actual conditions of the tenants who were brought under their control by the Permanent Settlement.

**Q. 10.** The Permanent Settlement from the point of economic interest was fundamentally unsound and unwarranted. It benefited the landlords at the expense of the tenants, because the unearned increment or portion of it no longer found its way into public revenue thus whereas 10 per cent. was given to the rent collector and 90 per cent. went to revenue, now 10 per cent. goes to revenue and 90 per cent. to private interests.

**Q. 11. (a)** Yes.

**(b)** Yes.

(c) Yes, including many illegal enhancements beyond that provided by the record of rights and law.

(d) Yes, the criticism is largely justified.

**Q. 12.** Yes, it seems to be the only way to effectually deal with the economically depressed condition of Bengal as compared with other provinces.

**Q. 13.** I advocate the collection of economic rent for the purpose of revenue. This means that the unearthed increment created by service both of the public and of the State will be secured for financing the various needs of Government.

**Q. 14.** The zamindars have had considerable compensation since the inauguration of Permanent Settlement. If they are not able to conduct their business in a satisfactory manner and so forfeit their right to the land, the same should then be kept in khas possession of Government and not let out to other zamindars.

**Q. 16.** To hang a millstone round its neck for many generations.

**Q. 17.** Many of these intermediaries would be eliminated if the unimproved land value tax were paid into the Government treasury.

**Q. 19.** Yes, the raiyats would prefer to come under Government direct. Probably under the khas mahal the illegal enhancements could not take place as much as under private proprietors.

**Q. 21.** The same as that of purchasing the zamindaris.

**Q. 22.** All land, khas or otherwise, should be subject to the same unimproved value taxation which the ordinary tenant would have to pay.

**Q. 23.** From time immemorial the King on behalf of the people has been looked upon as the owner of the land which was to be used for the benefit of the people, all of whom had a common interest and right in same. British legislation based on the pattern of old England probably introduced something into the land tenure realm which is foreign to the East.

**Q. 24.** Yes, largely so. This has been the position until the time of the Permanent Settlement.

**Q. 25.** No intermediary right should prevent Government from realising what is due to revenue on the unimproved value of the land.

**Q. 26.** If the raiyat lets his own land out on shares or at a rental it should not prevent his State from realising its dues from him.

**Q. 27.** Yes, provided they pay an actual portion of the unearned increment into revenue.

**Q. 28.** Yes, I certainly approve of the State levying an additional tax on the unimproved value of the land even up to the extent of the economic rent.

**Q. 29.** Yes, the class of cultivator is on the increase, because of the inroads made by the moneylenders, in taking over the holdings of the tenants.

**Q. 30.** (i) This partly explains the increase in share farming.

(iii) Much land has passed over to mahajans. During the economic depression their land was sold to recoup money dues. The system of allowing a mahajan to get a hold on the land by oral arrangement has also contributed to the loss of many tenures. They allow rent to fall into arrears and they purchase the holding in their own name.

**Q. 31.** A number of bargadars may just have a raiyat's right to a household plot.

**Q. 32.** Yes, they should have Government rights as a bargadar and receipts should be issued giving them clearance year by year. Under these circumstances they should not be ejected.

**Q. 33.** With the fragmentation of holdings and considering the small area in the hands of many tenants the bargadar system would not be economically sound.

**Q. 34.** In this area we do not find zamindars cultivating khas land with hired labour.

**Q. 35.** In my opinion one-third would be a more equitable amount.

**Q. 36.** The agricultural labourer lives hand to mouth existence, for often he sells his labour for term of years in return for some cash amount by which he undertakes to meet the dues of his mahajan.

**Q. 37.** In my opinion the experience which we have gained amongst aboriginal peoples which makes it impossible for a transfer to take place between an aboriginal and non-aboriginal without the consent of the Collector has saved the situation for them. I think some similar condition could be imposed to give preference in matters of transfer as between agriculturists.

**Q. 38.** In this locality 6 acres would be an economic holding for a medium family.

**Q. 39.** (a) Yes.

(b) Yes, the fragmentation of holdings is very pronounced owing to the Muhammadan law of inheritance. The same fragmentation does not take place among primitive aboriginal people.

**Q. 40.** This is a most difficult and problematical proposition, and could only be brought about by purchase and exchange of holdings. Though difficult it is most desirable in many cases.

**Q. 41.** Yes, if possible.

**Q. 42.** If a fair economic rent is collected by the State it will tend to prevent the accumulation of large areas by one person beyond that which he can economically cultivate for himself.

**Q. 43.** It does lead to the fragmentation of holding and should not be subdivided among themselves without the approval of the Collector to ensure that the holding is not reduced below a fair economic unit.

**Q. 44.** See above.

**Q. 45.** Only when their share of the land is divided and they collect their rents payable to them alone and not to several co-sharers. (From experience in the Debt Settlement Board the fact that tenants have to pay several times that is to several co-sharers within the State greatly complicates the payment of dues and also leads to additional impositions through the added number of rent collectors and officers who go to the village to collect the rents.)

**Q. 46.** Those who framed the Permanent Settlement considered the permanent arrangements being made would also hold good for the tenants under them, but no provision was made in the Act to protect cultivators from enhancements by the landlord.

**Q. 47.** This they assumed, but because no specific provision was made we have been led into the present depressed economic condition of Bengal's fiscal system.

**Q. 48.** If this was meant it was just as unjustified and detrimental to the State and public interest as the settlement considered permanent for the zamindars.

(e) Herein lies the defect that the State has allowed the zamindars to reap the entire benefit from the value they did not create.

**Q. 49.** I think it is quite fallacious to think of fixing rents in perpetuity either for the zamindar or for the tenant, and to even go back to some rent existing at the time of the Permanent Settlement will not meet the situation that confronts Bengal to-day. Tenants as a whole do not object to the payment of a fair and equitable rent. What they object to is the fact that only a small fraction of their rent goes

back in the way of public service, as same is intercepted by the zamin-dari system.

**Q. 50.** We would be repeating the mistake of those who framed the Permanent Settlement if we contemplated fixing rent for all time.

**Q. 51.** The framers of Permanent Settlement were certainly lacking in vision. They did not dream that land values would increase in the way they have during recent years.

**Q. 52.** Certainly economic rent should be paid in proportion to the fertility of the land and on account of the value created through public enterprise in the way of communication and other facilities.

Certainly the market value should be taken into consideration.

**Q. 53.** The fixing of rents has not followed economic principle which would act in consideration with all concerned. It has been most haphazard and irregular, thus giving one a great advantage over another.

**Q. 54.** Yes. Pressure of population set up immigration and clamour for land.

**Q. 55.** Again it should be based on the unimproved value of the land. The rent should not be fixed in perpetuity.

**Q. 56.** The values of the land irrespective of improvements should be ascertained and a tax placed on same, that will eliminate all other taxes on labour.

**Q. 57.** Experience in the Bombay Province shows that long term settlements have not found favour and have gradually been reduced from 25 to 20 and even 10 years.

**Q. 58.** This would lead to all sorts of evasion.

**Q. 59.** It is not the fixing of equitable rates and provisions for enhancements of same by the Bengal Tenancy Act that has been defective so much as the manner in which rates have been raised without appeal to a competent court.

**Q. 60.** It is the State that should certainly share in the natural improved value.

**Q. 61.** Enhancements should not be considered unless there is a rise of prices which is more or less stable.

**Q. 62.** The economic nature of the holding should be taken into consideration.

**Q. 63.** The tenant should not be deprived of the fruit of his own labour by collecting same in the shape of rates. It is the value which he does not create which should be the legitimate claim of the State.

**Q. 64.** The same principle as heretofore stated should operate.

**Q. 65.** The right of the people or State in the land should never be abrogated even by the tenant holder or zamindar. It should always be free to collect the just and equitable economic rent.

**Q. 66.** My experiences of enhancement under section 105 of the Bengal Tenancy Act have been nominal and fair, but illegal enhancements above that sanctioned under section 105 have been claimed and collected by the landlord.

**Q. 67.** This should not be the only object of a revisional settlement. The Government should respond more readily on the grounds of a decrease in value, then on the grounds of a small increase.

**Q. 68.** Yes.

**Q. 69.** I am not aware of this.

**Q. 70.** Because no economic principle has been accepted in the matter of fixing rates.

**Q. 71.** Remission of rent is rare. Even where tenancies have been destroyed by flood and sand it has been known that zamindars endeavour to collect dues through certificate procedure. There are many cases in the Debt Settlement Board where tenants say they have relinquished land affected by sand deposit but claims are still being made by the zamindars though the land has gone out of cultivation.

**Q. 73.** In the tracts bordering on the Garo Hills the productivity of the soil is on the decrease. Improved seed has been introduced with good effect. Artificial manures have not been fairly tried.

**Q. 74.** Conservatism and lack of initiative in rural areas.

**Q. 75.** I do not know.

**Q. 76.** Salami is realised but not for improving the land. It is another means of increasing the income of the landlord.

**Q. 77.** I consider the Permanent Settlement largely responsible for the condition of raiyats to-day.

**Q. 78.** Debt Settlement Boards.

**Q. 79.** The record-of-rights is satisfactory to a degree. Some local record of minor changes would be useful.

**Q. 80.** Improved methods important.

Supplementary industry is needed for State-reasons.

Collective and co-operative farms could be tried especially in aboriginal areas. Co-operative storage and marketing is most important. The cultivator mostly sells his dhan at a price 50 per cent. to 70 per cent. less than that received by the mahajan from June-October.

Cattle breeding is most important. Any weed is allowed to encumber the soil in the hope it may be able to pull a plough.

Irrigation most important. May be done by co-operative or collective farming.

**Q. 81.** Yes, pressure of population does cause poverty, but poverty could also be removed if all members worked, and worked systematically.

**Q. 82.** Canning factories could help to absorb some labour, and enable cultivators to cultivate supplementary fruit and vegetable crops. First class tomatoes can be grown, but there is no arrangement for preserving the surplus stock.

**Q. 83.** The short term agricultural loan is the best to save the tenant from the moneylender.

**Q. 84.** Yes, and even more (Changora).

**Q. 85.** Co-operative credit societies have helped many to get a start on the land. The principle of co-operation has not been well understood. Most other demands have been met first not realising co-operative credit should be progressive with the needs as they arise. I do not think co-operative credit has succeeded in wiping out rural debts. It has created another indebtedness by the cultivator.

**Q. 86.** Yes, Debt Settlement Boards have as far as I know been able to scale down agricultural debts very considerably. Defects there are which delay unduly awards which should be given.

**Q. 87.** Short term loans, refundable within the year, are needed. (11,000 to aborigines.)

**Q. 88.** I would like to try one for the partially excluded area of Mymensingh. Specially for aborigines.

**Q. 89.** With change in procedure of Debt Settlement Board such dues could be realised, with little expense and harassment.

**Q. 90.** As far as I know the working of the certificate procedure has been harassing and objectionable because the peons so often use

it to lime their own pockets. A portion of the amount realised for goods distrained never finds its way on to the receipt issued. That Debt Settlement Board should deal with rent dues in a separate category to other debts.

**Q. 91.** I would follow the revenue laws so well applied in Nigeria.

**Q. 93.** Probably the illegal enhancements will be dealt with. The tenants will be saved from losing their land. The landlords income will be decreased.

**Oral evidence of Rev. Victor J. White, on 24th March 1939.**

In reply to the Chairman, he explained that by "economic rent" in his reply to question 13, he referred to the unimproved value of land resulting from the service of the community and not from improvements. There has been large increment in the value of land since the Permanent Settlement. Even at the time of the district settlement, the rent must have been 100 per cent. higher and the value of land higher still. He would be in favour of taxing all land values. Rs. 3 per acre, the existing rent, is reasonable and still leaves a further unearned increment. In Mymensingh district, the educational cess is 5 pies per rupee on the rent roll and amounts to as much as the revenue paid for the entire district. If the Permanent Settlement were abolished he thought that Rs. 3 an acre would be a reasonable rate of rent.

The barga question is difficult. In the north of Mymensingh there is a tendency to convert cash rents into fixed produce rents, which are payable whatever the outturn may be. This system is very common. In fact there have been definite attempts to break up taluks and jotes and to convert them into smaller holdings on the tanka system. The object of this is to get round the provisions of the Tenancy Act. Holdings which were recorded in the settlement records as having occupancy rights are being treated as though the tenants were adhiars. It is true that many tenants were paying produce rents formerly, but the position is now worse because the landlords are attempting to contravene the Tenancy Act by auctioning holdings at produce rents, and are driving out the tenants. The reason for this is largely that the aboriginal tenants are ignorant, but Hindu and Muhammadan tenants have suffered similarly. The policy of the zamindars seems to be responsible for this. The zamindars derive greater profits when cash rents are converted into produce rents. Their

kabuliylats are a contradiction in terms. They start by calling the tenant an adhiar and proceed to assess a fixed paddy rent.

In reply to Sir F. A. Sachse, he said that tanka rents are high, and have amounted to as much as 11 maunds per *ara*. Some zamindars refuse to recognize as tenants cultivators who are paying fixed produce rents, in spite of the fact that cases have gone up to the Board of Revenue, and the Board has held that they are tenants and that the landlords' kabuliylats are invalid.

Continuing to the Chairman, he said that he is in favour of restricting transfer to agriculturists. Chapter VIIA of the Tenancy Act has benefited the aboriginal tenants, and he would therefore recommend some provision on those lines. Because rent is below the economic level, several grades of intermediaries have squeezed themselves in between the actual cultivators and the State, and live on the unearned increment.

In reply to questions put by the Chairman on behalf of the Maharajadhiraja Bahadur of Burdwan, he said that he would advocate a freehold right for all tenants as in New South Wales. "Freehold" means that tenants would pay direct to Government. In the pre-British period, the Government assessment was on the gross produce, and this penalised the tenants heavily. The Permanent Settlement added greatly to the value of property but none of that profit went to the State. The effect of the Permanent Settlement in Bengal deterred the Governments of other provinces from making the same experiment. He considered that the Permanent Settlement is morally wrong, economically unsound, and socially detrimental. It should be abolished along with the intermediate tenures.

At present taxation falls mainly on labour and the fruits of labour. It should fall on improvements effected by the community, i.e., the unimproved value of land.

As regards the reply to question 91, he explained that in northern Nigeria, the principle of tax on unimproved values has been applied. The same is the case in Denmark which is essentially an agricultural country with a dense population. In Denmark, there is comparative prosperity and peace. In the large cities of Australia, the same principles apply: the tax was removed from the improved values and transferred to unimproved values. This was done in Sydney in 1906 and has been followed by great prosperity. Every municipality has the option of adopting the same system. There should be a Land Valuation Department in Bengal. The Permanent Settlement gives no idea of value of land. The rent roll has gone up from 3 to 16 crores but the actual value of land is far greater.

In reply to the Chairman, he thought that it would be possible even in an old settled country like Bengal to carry out such a valuation.

In reply to Mr. B. K. Roy Chowdhury, he said that he has been in Bengal for nearly 21 years and has resided for 13 years at Birisiri in North Mymensingh. The activities of the Mission extend from Sylhet to the western border of Mymensingh, and south into the Madhupur area. He deals largely with aboriginal tenants but has contact with Hindu and Muhammadan tenants also. In the Susang family, there are three main *tarafs*. One of them is subdivided into two. The Maharaja of Mymensingh has some property, and there are also the zamindars of Narayanpur and Sherpur. Three of the Sherpur zamindars have large interests. The *bara-taraf* of Susang is under the Court of Wards and also the  $2\frac{1}{4}$  annas share of Sherpur. The incidence of revenue in Mymensingh is only 1 anna in the rupee of the rent roll, whereas the Maharaja of Burdwan pays Rs. 2 an acre.

He thought that since the Permanent Settlement 50 per cent. of the land in his area has been brought under cultivation, and that the same might be said of the whole of Mymensingh district. He could not give exact figures to show the unimproved value of land but in the case of Susang, he said, land value was practically nothing 25 or 30 years ago, when it was mostly jungle. Land was cleared and brought under cultivation and its value became as much as Rs. 300 an *ara* (one *ara*=1.25 acres). At present its value would be Rs. 150 per *ara*.

The record-of-rights would show that taluks were originally held by aborigines. Probably it was not realised at the time of the district settlement that so much land would be alienated, but Government subsequently discovered what was happening and applied Chapter VIIA of the Tenancy Act. The record-of-rights has been infringed, and jotes have been destroyed. At the time of the Permanent Settlement, the rent might have been Rs. 2 an acre but the landlords have increased them 100 per cent. and by converting jotedars into tankadars they are getting three times as much. He could show many cases in which the rent has been increased more than 2 annas in the rupee. Even the cess has been doubled.

As regards the reply to question 26, he explained the meaning was that Government should not be prevented from realising the unearned increment because a raiyat has sub-let.

In reply to Sir F. A. Sachse, he agreed that there are exceptional reasons in the Susang area which induced Government to start operations under section 112, Bengal Tenancy Act. He would not say however that the reasons for Government's action are confined to one zamindari only; nor would it be correct to say that only the aboriginal tenants are affected. Muhammadans have also been affected. When

jungle was cleared, the land was settled with the tenants at high produce rents. Some of the Muhammadan tenants agreed to pay these rents : they had no option.

The tanka rent varies. It may be 3, 5, 8, or 11 maunds per *ara*. During the settlement operations, crop cutting experiments have shown an outturn of 12 to 15 maunds per acre. The Mission has an experimental farm and has found the outturn to be about 17 maunds per *ara*. Had the record-of-rights not been infringed the present rate of rent would be between Rs. 2-8 and Rs. 2-15 per acre. At the Permanent Settlement, the rental was much lower. There were large areas held by Hajongs and Garos on very low rents. The zamindars receive Rs. 3 as rent per acre and pay three annas per acre as revenue. The revenue for the whole of Mymensingh district comes to 8-53 lakhs and educational cess at 5 pies in the rupee comes to 8-58 lakhs so that the landlords are only paying 5 pies per rupee on the rent roll.

It is true that the tenants may have profited by selling for good prices land which was worth nothing at the time of the Permanent Settlement, but the landlords have also gained by taking land back into their khas possession. He mentioned a case of a holding worth Rs. 2,000 which had been sold for arrears of rent and purchased by the landlord for Rs. 120. He considered this utterly wrong.

The bargadars receive half of the crop, and manage to exist on it. He agreed that raiyats who pay Rs. 4 per acre as rent should be better off than bargadars.

In reply to Dr. Mukherji, he explained that "Freehold" means that there are no intermediaries, but does not mean that no rent should be paid. He was in favour of taxing the unimproved value of land whether holdings are above or below the economic standard. It is desirable to have holdings of an economic size but he would not legislate to that effect. The scheme which he advocates would produce sufficient money for the development of public services, such as roads, railways, schools, hospitals, etc. If necessary, he would agree to legislate in order to provide economic holdings but he did not think such legislation would be practical: in any case it would not affect the principle which he advocates. Tenants on uneconomic holdings should have other avenues of employment besides agriculture, such as day labour and so forth, and they should not be exempted from taxation. Rent should not be on the gross produce but on the value of the land, excluding improvements, i.e., not on the labour but on the unimproved value brought about by the community. The full economic rent could not be realised at once: it would have to be progressive. The value of holdings would depend on various factors such as their location, their fertility, etc., and with these factors the cultivators have no concern. This system

of taxation is in force in Bombay. Out of Rs. 3 per acre paid as rent in Mymensingh district only 3 annas goes to the State as revenue and he thought that the cultivators would be glad if the whole rent paid by them went to the State. The balance between rent and revenue is distributed among the middlemen and has confirmed them in wealth and idleness. It may be true that this system has created a prosperous middle class, but what, he asked are the conditions of the cultivators. He believed that the reform which he had suggested would find its way down to the very smallest holdings because of the great increase which would be effected in public services. Provinces which are poorer than Bengal are paying more in proportion to central revenues than Bengal. [Dr. Mukherji disagreed, and said that Bengal's contribution to central revenues is higher than that of any other province.]

Income-tax should be levied on what the community, and not the individual produces. It is a tax on labour and the fruits of labour, and should be abolished.

In reply to Mr. B. K. Roy Chowdhury, he said that in Australia the aborigines have reserves over which they can roam and find expression for their nomadic habits. The revenue in Australia is derived almost entirely from tariffs, income-tax and sales tax. He condemned this system because it discourages trade and allows large profits to be made from unearned increment.

In reply to Khan Bahadur Hashem Ali Khan, he said that tenants are more conscious of their rights nowadays. Many of them have grievances; some of which are just but others not. The cultivators realise that they are not getting back in public service a fair portion of what they are paying as rent.

In reply to Khan Bahadur Muazzamuddin Hosain, he said that an increase in the unimproved value of land must always take place following the increase in population and the development of roads and railways. The value of land in Susang might now be Rs. 150 per *ara*. It is true that the jungle land was reclaimed and cultivated by individuals, but those lands had little value until the population increased and the area was developed. If a tax were to be fixed at one anna per rupee on present land values, it would produce Rs. 9-6 per *ara*. But if the same rate were to be imposed on the lands where the office of the Commission is situated the income would be thousands of rupees. According to his scheme the assessment would be increased or decreased according to the valuation. The assessment would not necessarily be one anna in the rupee. He explained that although improvements are effected by individuals, there remains an unimproved value of land. The taxation which he proposes would not be on the improved value but on the unimproved value and the tax would be graded according to

the valuation of the land and the requirements of revenue. The Chairman suggested that it might be difficult to separate the improved from the unimproved value of land and that the whole value of agricultural lands might be due to improvements. Mr. White replied that although virgin land might have little value originally, when the community steps in, a value is automatically created. He did not think it would be difficult to separate improved from unimproved value. The Chairman mentioned that in England the capital value of land is £30 per acre and it is often contended that no unimproved value exists. Mr. White said that wherever an area is developing, a value must arise. If Denmark could arrive at a valuation of the unimproved value there is no reason why it should not be done in this country. He agreed that in making this valuation fertility would have to be considered as also marketing facilities. He mentioned that in other provinces Government has assessed its land revenue on a share of the net produce. As a result of the Permanent Settlement in Bengal 90 per cent. now goes to the zamindars whereas at the time of the Permanent Settlement 10 per cent. went to them.

Continuing to Khan Bahadur Muazzamuddin Hosain, he agreed that unearned increment should go to the State, but landlords should get the increment in cases where they have made improvements such as the excavation of khals, etc., His theory of taxation would be applicable to urban as well as rural areas.

As regards the reply to question 84, he said that it is very difficult to calculate exactly what interest is paid to the mahajans. He instanced a case which went up to the High Court where the interest was as much as 75 per cent. In another case a tenant had borrowed 3 maunds of paddy and in the document the amount to be repaid was described as 9 maunds at Rs. 3 per maund. Interest on paddy loans when converted to cash is sometimes as high as 300 per cent.

Government finds it difficult now to provide agricultural credit but if more revenue were available it could meet the demand for short termed loans. Recently Government distributed Rs. 10,000 as agricultural loan in the Susang area and the whole amount was repaid.

As regards subletting, he explained that if a tenant has more than an economic area and gives a sub-lease that should not affect the power of the State to impose the full tax, i.e., the tenant who sublets would be assessed on the whole holding including the area sublet. If the holding became more valuable by subletting the rate of tax would be higher.

He considered however that subletting is detrimental. The principle advocated by him would stop speculation in land. He mentioned the case of people who have land in the close proximity of cities and

hang on to it in order to get unearned increment, whereas a man who builds on similar land is taxed.

In reply to the Secretary, he said that zamindars have already been compensated in the sense that they have got a great deal out of their estates but if compensation is to be paid under the provisions of the Government of India Act he would be in favour of a sliding scale which would recover for the community 90 per cent. of the income from unimproved land values leaving 10 per cent. to the zamindars. After four transmissions of the zamindar's interest the annuity charge should be completely extinguished. The land and all revenue from land would then revert to Government with tenants holding direct under them.

In this way private possession in land would remain, but the State or Government would collect what is due to the community from the value which it creates.

## Reply by Bangiya Brahman Sabha.

**Q. 1.** The immediate object of the Permanent Settlement was to ensure a fixed revenue and its prompt realisation to enable the East India Company to meet the expenses of the civil and military establishment of the Company and to pay dividends to its proprietors at home.

The amount required for these purposes was very large, and, consequently, the revenue assessed on estates was exacting. The promise given to the proprietors to let them enjoy the fruit of their good management and industry exclusively and for ever at a fixed revenue was the inducement under which the proprietors took settlement at such excessive assessment and in the face of the harsh methods adopted for realisation of the revenue.

Proprietors were expected to improve the estates by exerting themselves in the cultivation of their lands. But this was simply an expectation and a pious wish and formed no part of the duty imposed by the Permanent Settlement.

The only duties were—

- (i) To discharge the revenues at the stipulated periods without delay or evasion.
- (ii) To conduct themselves with good faith and moderation towards their dependent talukdars and raiyats.

In our opinion the Permanent Settlement did not take away any of the existing rights of the tenants, nor did it enlarge them.

**Q. 2.** Regulation I of 1793 did not lay down the rights of tenants. In Regulation VIII of 1793 the only class of raiyats protected from enhancements were “istemrari raiyats” (section 49). As regards the rest of the tenants the Regulation being silent, we may presume that they were governed by custom and usage.

By the Permanent Settlement the zamindars and other landlords were recognised to the proprietors of the soil and they could therefore exercise all the rights of a proprietor. Though they might not choose tenants in the sense that they were entitled to eject the khudkasht raiyats at their pleasure and induct new tenants in their place yet they had certainly the power to choose tenants at the time of fresh settlement of untenanted lands or at the time of resettling lands relinquished by the old tenants. Section 52 of Regulation VIII of 1793 also lays down that the proprietors of lands are entitled to let the “remaining lands”, i.e., lands remaining over and above the lands held by istemrardars in whatever manner they may think proper. The landholders thus had the right to refuse to settle with or recognise an undesirable tenant.

We are of opinion that the rights of the raiyats existing from before the Permanent Settlement continued to be governed by custom and usage and if a raiyat had a customary right of occupation he was not liable to ejectment at the pleasure of the proprietor. But the right of those raiyats whose tenures commenced since the date of the Permanent Settlement depended on contract and as such landlords had certainly a right to choose their tenants.

**Q. 3 & 6.** The condition of the country during the period intervening between the breaking up of the Moghul Empire and the establishment of the Permanent Settlement was in a hopeless chaos. Government was weak and both person and property were insecure. The economic condition of the country was deplorable. Famines were of frequent occurrence and the one that shortly preceded Permanent Settlement swept away one-third of the population of the country.

The revenue administration was taken up by the East India Company in 1766. From that time onward various methods were tried for collection of revenue but all of them failed. The financial condition of either the Company or of the country did not improve. Even the costs of military and civil establishments of the Company could not be punctually met. The Company was on the brink of bankruptcy. It was at this juncture and to save a situation so grave that the Permanent Settlement was concluded with the zamindars and other proprietors of the soil.

On 18th September 1789, Lord Cornwallis wrote:—"I may safely assert that one-third of the Company's territory in Hindusthan is now a jungle, inhabited only by wild beasts. Without a Permanent Settlement the zamindars will not be incited to clear away that jungle and bring it into cultivation and effect other substantial improvements." (Fifth Report, pp. 472-473.)

At the time of the Permanent Settlement it was expected that the zamindars would extend cultivation within their respective zamindaris and from later reports we find that this expectation was sufficiently fulfilled.

"The Administration Reports contain acknowledgment of the excellent administration of their estates by several zamindars; among these are names of conspicuous benefactors of their districts and of their kind, whose good deeds are an example for even England's nobility."

(See p. 10, Introduction to zamindary Settlement of Bengal).

On 9th August 1831, Mr. J. S. Mill in answer to Question 3347, "Is it not the fact that the cultivation has extended in those provinces where the zamindari system prevails?" said "I believe that is the fact."

Further on in answer to Question 3348—"To what do you ascribe that?" he said "There can be no doubt that this extension of cultivation implies an increase both of population and application of capital. In order to enable the country to extend its cultivation further capital must have been applied to it."

On the 20th of October 1883 only two years before the passing of the Act of 1885 the Commissioner of Burdwan division reported to the Government of Bengal as follows:—"The Bengal of to-day offers a startling contrast to the Bengal of 1793; the wealth and prosperity of the country have marvellously increased—increased beyond all precedents under the Permanent Settlement.....A great portion of this increase is due to the zamindari body as a whole and they have been very active and powerful factors in the development of this prosperity."

It was the enterprise and good management of the landlords that converted Bengal into one of the most flourishing provinces within a short time after the Permanent Settlement. The tenants no doubt bestowed their labour in the matter of reclamation. But reclamation and extension of cultivation could not have been effected within a short time after the Permanent Settlement by the efforts of the tenants alone had they not been aided by capital and initiative from the landlords whose very existence depended on an increase in the income from their estates.

At the time of the Permanent Settlement extension of cultivation was not so much a necessity with the cultivators as it was with the landlords for due payment of land revenues. At that time there was no pressure of population on agricultural land, rather agricultural labour was scarce and they "had to be courted to undertake cultivation," as Mr. Francis put it. So it may be generally said, as already stated above, that the initiative was taken by the zamindars who had greater resources and wealth and also a pressing necessity for extension of cultivation. Of course, land could not have been cultivated by them. Then again waste lands would not have been in requisition unless there was increase of population for cultivation of additional lands. All these factors, therefore, contributed to the extension of cultivation and prosperity of the province.

**Q. 4 & 24.** In our opinion the zamindars were the actual proprietors of the soil before the Permanent Settlement and it will not be correct to say that the Permanent Settlement converted that status of zamindars from collectors of revenue to actual proprietors of the soil.

In the Hindu period the raiyats only had the right of occupation and enjoyment of the usufruct of the land. They were "ভোগপ্তা", i.e., entitled to enjoy the usufruct but not "ভূপ্তি", i.e., lord of the soil.

They were punishable by fine and sometimes even by ejectment for non-performance of cultivation. (See our answer to question 23.)

From the passage occurring in Manusamhita “হস্তের দক্ষতা কেনার মাহাত্ম্য” some European scholars and following some Indian scholars have deduced “that the proprietary right vested in the cultivator.”

Much of the argument in favour of the proprietary right belonging to the cultivator is based on a mis-appreciation of this passage which has been interpreted to mean that according to Manu “land is the property of him who cut away the wood or who tilled and cleared it.” This meaning, however, is not justified in our opinion when the verse is read with reference to its context.

The passage occurs in Chapter 9, verse 44. It reads:— .

পৃথোরপীমাং পৃথিবীং ক্ষার্যাঃ পূর্ববিদ্যো বিদ্যঃ ।  
হস্তের দক্ষতা কেনার মাহাত্ম্য শক্যবত্তে মৃগম ॥

This has been translated by Max Muller as follows: “(Sages) who know the past call this earth (Prithivi) even the wife of Prithu. They declared a field to belong to him who cleared away the timber, and a deer to him who (first) wounded it.”

The note by Medhatithi to this verse is as follows: Though the earth, after she belonged to Prithu was possessed by many kings, yet she is called Prithivi, or Prithvi, after her first owner Prithu. Medhatithi rightly observes here “ ক্ষতি পুরণ পুনঃ পুরণ কর্তৃত কল হইত্ব” (the result of tilling the soil and sowing the seed goes to him). The cultivator had no right of transfer, a right which is the main constituent of proprietary right in land. Such right had always been only in the king who was the “ভূষিত” or the lord of the soil. This contention will be supported by Jajnavalka, sloka 318, which runs thus: “দেশ ভূমি বিবৃক্ষ বা শক্য ন কর্তৃত হয়” etc., in commentary whereof Vijnasewar (Mitakshara) says that the right of gift of land belonged only to the king and not to the person enjoying the usufruct thereof. So the king who had the power of transfer was the real proprietor while the cultivator who occupied the land and enjoyed the usufruct had only a limited interest.

During the Hindu period there were innumerable independent chiefs of different grades who were known as “Rajas”, “Mandalleswars”, “Mandalikas”, “Samantas”, etc. They sometimes owed allegiance to the paramount power of the “Samrat” or Emperor, if any. They exercised administrative powers within their territory. They as owners of the soil collected rents from their tenants. Besides the tributes received from kings and other chiefs a “Samrat” or Emperor, also used to collect rents direct from tenants in respect of lands held by him in khas.

During the Muhammadan period the system was not disturbed and these independent chiefs were given the common persian appellation of "zamindar" meaning landlord. So the fact remains that it was the zamindars who were the actual proprietors of the soil even from before the Moghul rule.

**Q. 5.** The annulment of Permanent Settlement will be a breach of a solemn pledge given to the zamindars. It was a pledge which was not given in a hurry but after mature deliberation and this will appear from the fact the scheme was put forward by Mr. Philip Francis on 22nd January 1776. In 1786 the instructions respecting Permanent Settlement were drafted. In a letter, dated the 12th April 1786, from the Court of Directors these instructions were embodied. In 1789-90 the Government of India introduced the Decennial Settlement. In March 1793 they declared it Permanent.

The Permanent Settlement was introduced under the authority of an Act of Parliament being Pitt's India Act of 1784 which provided *inter alia* that the zamindars who had been displaced were to be restored and the situation rendered permanent.

The language used in the Proclamation itself makes it sufficiently clear that the promise was solemnly given. Relying on such a solemn pledge the proprietors took settlement and those who subsequently purchased zamindaris and other permanent tenures either at a public sale or by private treaty also relied on this solemn promise which recognised and secured a permanent proprietary right of the zamindars in the soil. Permanent Settlement created a sense of security in the minds of the people. It may be safely said that economic and social super-structure of Bengal has been built on the solid foundation of the solemn pledge. Permanent Settlement has immensely benefited the province contributing much towards social, economic and educational progress of Bengal.

According to Indian ideas a pledge is inviolable. It attaches a special sanctity when the Ruling Power is the giver of the pledge. In ancient times instances were not rare when a Hindu king had to renounce his kingdom for the redemption of his pledge.

It is painful to imagine that the Government could ever contemplate to resile from the position they had taken up when the Permanent Settlement was granted.

It is said that the tenants were no parties to the Permanent Settlement. But it was not necessary that they should have been parties to the Settlement because in the first place, the tenants had all along been holding their lands under the zamindars and paying rent to them. There was, therefore, no change in the conditions of the tenants. The arrangement being between the State and the zamindars and the raiyats

not having any proprietary rights it was not at all necessary that they should be parties to it. Besides no particular class of subjects is a party to any legislation.

Secondly, the rights of the tenants were not affected, on the contrary the Government reserved to itself the right to legislate for the benefit of the tenants and has been as a matter of fact safeguarding the interests of the tenants ever since the Permanent Settlement by passing tenancy laws.

It is a travesty of truth to say that Permanent Settlement has crippled the financial resources of the province. The point has been fully discussed in our answer to question 13.

**Q. 6.** Has been answered along with question 3.

**Q. 7 & 9.** A small portion of the increase in the rent-roll has been due to enhancement of rent but the bulk of it is due to extension of cultivation. Extension of cultivation has been effected, as we have shown in our answer to questions 3 and 6, by the combined efforts of both the zamindars and the tenants, though it is difficult to say how much each contributed.

Extension of cultivation which was expected of the landlords at the time of the Permanent Settlement formed no part of their duty. It was simply an expectation and perhaps a piece of advice. The only duty that was imposed upon the zamindars by the Permanent Settlement, so far as the tenants were concerned, was to conduct themselves with good faith and moderation towards their tenants. As to how far they have discharged this duty has been discussed in our reply to question 8.

Most of the landlords are resident in their respective estates. Very few are absentees. We do not think absenteeism has been responsible to any great extent for lack of economic improvement of rural areas. We rather think that the Tenancy Laws estranged the tenants from landlords and there being hardly any scope for the landlords to effect any economic improvement of their estates under the present system, they do not find any necessity of their living upon their estates. But still even now instances are not rare when the zamindars are found to "advance seed or money to their raiyats, build and maintain embankments or dig and keep clear and in working order water-courses and prepare wells and spend huge sums of money annually on education, medical help, construction of roads, charity, religious purposes, water supply, excavation of tanks for irrigation purposes and agricultural and industrial improvements of the country, instances of which are too many to be mentioned here.

**Q. 8.** By the Permanent Settlement Regulations, the zamindars were expected "to conduct themselves with good faith and moderation towards their dependent taluqdars and raiyats in return for the benefits they will themselves derive from the orders now issued" (Regulation I of 1793, Art. VI).

The zamindars for the most part have conducted themselves with moderation as will be evidenced from the following facts:—

(a) Although rent payable by the tenants was not fixed in perpetuity by the Permanent Settlement and the landlords were entitled to enhance the same except in the case of istimari mokarari raiyats yet they did not abuse this power but exercised it within bounds. This will be evident from the fact that the average rent paid by the tenants of the permanently settled estates is much below the rate prevailing in the khas mahals and the temporarily settled estates, e.g., the Sundarbans.

(b) By the Permanent Settlement Regulations the proprietors were given unlimited power to settle lands within their estates on such terms and conditions as they liked. This power also was exercised with moderation and the terms of settlement were nowhere harsh or unfair.

(c) Cases of ejectment even of those tenants who could not claim any customary rights of occupation were rare except for non-payment of rent.

(d) While a large number of proprietors lost their estates for their failure to pay the revenue in time and were completely ruined under the harsh provisions of the sunset law, tenants were not dealt with in that way by the zamindars though realisation of rent from the tenants was never regular nor easy.

Harsh methods of realisation of rent if resorted to by any landlord at any time were simply due to the fact that while the revenue payable by the landlords was high, and failure to pay it punctually was punished with unrelenting hand, the collection from the tenants was small and irregular. But such methods are now things of the past under the present changed circumstances of the country. On the other hand instances are not rare when landlords helped their tenants with cash loans and gave them facility to pay the rent gradually even when they were heavily in arrears. Many landlords have helped many poor raiyats to acquire lands by arranging payment of selami by instalments. In years of scarcity—charities and advances by landlords enabled a large body of tenants to keep their body and soul together.

**Q. 9.** This question has been answered along with question 7.

**Q. 10.** The Permanent Settlement was in the interest of the country economically. It replenished the resources of the Company. It stabilised rent. It assured security to the proprietors—and this

had an effect of generating a sense of security among all classes of people. In effect it benefited the whole agricultural population—as it led to expansion of agriculture and increased the wealth of the country. The chaos pervading the country was lifted and people felt relieved and secure as when one feels after a storm or an earthquake is over. Peaceful condition of the country is the first prerequisite of its economic welfare. It is the foundation on which trade and commerce of a country flourish. Bengal became the most flourishing province in India after the Permanent Settlement as Mr. Ramesh Chandra Dutt in his Economic History of India, p. 94, rightly observes :—

“It is the one act of the British nation within the century and a half of their rule in India which has most effectually safeguarded the economic welfare of the people. It is an act which is in consonance with the modern policy of civilised nations to permit the people to profit by their own industries instead of paralysing their industries by an uncertain and increasing State demand. Agriculture has largely extended in Bengal within the last hundred years.”.....“Since 1793 there has never been a famine in permanently-settled Bengal which has caused any serious loss of life. In other parts of India, where the land tax is still uncertain and excessive, it takes away all motives for agricultural improvements and prevents saving, and famines have been attended with the deaths of hundreds of thousands and sometimes of millions. If the prosperity and happiness of a nation be the criterion of wisdom and success, Lord Cornwallis’s Permanent Settlement of 1793 is the widest and most successful measure which the British nation has ever adopted in India.”

The interest of the tenant has not in the least suffered under the Permanent Settlement. The right of occupation of most of the tenants has been secured under the landlords that followed the Permanent Settlement. Illegal exactions are things of the past. The rate of rent paid by the tenants, except in certain exceptional areas, is not at all high. It cannot be said that the landlords enjoy the advantages at the expense of the tenants. One is said to secure an advantage at the cost of another when the former wrongfully takes or prevents the latter from getting what rightfully belongs to him. This is not the case between the landlords and tenants of Bengal. The rights of each party are well defined and there is hardly any room for encroachment.

**Q. 11.** In arriving at the figure of 80 per cent. we are afraid the large percentage intercepted by the intermediaries has not been taken into consideration. Then the total rent payable to landholders includes not only rents payable by cultivating raiyats for lands held from the time of the Permanent Settlement but also rents of the vast

lands which landholders had reclaimed, the amount of annual value collected by rent-free holders and the amount collected from under-raiyats.

But even if a very large percentage is appropriated by the zamindars, it is to be borne in mind that under the Permanent Settlement they got only one-tenth of the assets as their profits, and if in the course of a century and a half, lands which were absolutely waste or jungle and did not yield any income at the time of the Permanent Settlement were brought under cultivation, and the lands became more and more productive and the price of produce gradually increased in the course of a century and a half, it is difficult to see how any one can complain that the Permanent Settlement was an unfair arrangement under which zamindars got a very large percentage of the income. A considerable portion of the income returns to the society in some form or other. Expenses of a zamindar for purposes other than personal are not negligible. His charities, donations and contributions to useful institutions are not to be overlooked. The margin between his income and expenditure including the Government and social demands is not very large in most cases.

(ii) The system of subinfeudation of tenancies may be said to have been encouraged by the Permanent Settlement, but the Tenancy Acts are no less responsible for its propagation. It is not necessarily always an evil and sometimes it was done of necessity. Some big estates created permanent tenures such as Patni tenures which had the effect of saving the estates. The rent of the raiyat is generally left undisturbed. There may be particular instances when the raiyat is made to pay higher rates. That should, however, be checked.

(iii) Landlords have no doubt exercised their right of enhancement but except in certain areas it has not reached a figure which can be called unfair.

(iv) The tenants to-day are independent of landlords. If a tenant sends his rent by money order he need not even feel that there is such a thing as landlord or a gomasta.

We do not think that the criticisms are at all justified.

**Q. 12.** We do not advocate abolition of the Permanent Settlement.

**Q. 13.** It may be correct to say that the continuance of the Permanent Settlement involves a loss to the State to the extent of about 75 per cent. of the raiyati assets estimated at Rs. 12 crores under the head "Land Revenue." But the remedy suggested cannot be of any avail. It has to be seriously considered whether the abolition of the zamindari system or the cancellation of the Permanent Settlement and

substitution of temporary settlement or the imposition of a tax on agricultural income would ultimately come to the benefit of the provincial finance as a whole.

There can be no question that by a simple mathematical calculation we can get at a favourable figure if the Permanent Settlement or the zamindari system is abolished. The critics conveniently forget that in calculating the loss or gain, the whole resources of the Province have to be taken into account. The Permanent Settlement has augmented the provincial revenue in various ways. The stamp duty (which was Rs. 355 lakhs in 1928) which is one of the main sources of Government income yields such a figure because of the Permanent Settlement Regulations. The judicial statistics would show that out of the total number of civil suits 60 per cent. are rent suits and a considerable portion of money suits are for "kislibandi" for arrears of rent yielding a huge figure of stamp duty. The sense of security created by Permanent Settlement attracts many people to make investments in lands. The economic necessities of the Permanent Settlement have led to sub-infeudations resulting in the distribution of profits of the landholders among a number of middlemen. The comparative affluence of middle class in Bengal is reflected in income-tax and customs receipts which are much higher than those in other provinces where Permanent Settlement does not exist. The following figures of income-tax and customs receipts in different provinces will speak for themselves:—

(In lakhs of rupees) in 1928-29.

|                 | Income-tax. | Customs. |
|-----------------|-------------|----------|
| Bengal          | ...         | 615      |
| Madras          | ...         | 131      |
| Bombay          | ...         | 317      |
| United Province | ...         | 90       |

It can be asserted with certainty that the abolition of the Permanent Settlement will seriously affect these sources of income.

The abolition of the zamindari system will entail a heavier strain on the public finance on account of the cost of direct realisation from tenants. Moreover frequent failures of crops due to flood or drought are likely to make the revenue unstable.

If the management of zamindaris are taken over by the Government they will be under an obligation to maintain the Public Institutions and other acts of public beneficence hitherto financed by the zamindars. If allowance is made on this account, the net result of the transaction,

we are afraid, will not be encouraging at all. Temporary Settlement will involve periodical preparation of record-of-rights at the expiry of a limited period. The costs so incurred will outweigh the profit that may be derived in the shape of an augmentation of revenue. The imposition of a tax on agricultural income is also open to objection in as much as income-tax usually exempts income below a certain amount. As Bengal abounds with small estates, tenures and holdings most of them may not be required to pay any tax at all. It seems, the political agitators have raised a false cry against the zamindari system and the Permanent Settlement without examining with sufficient care the merits and demerits of the innovation they are advocating. It is our considered opinion that any attempts at disturbing the system which worked for such a length of time setting its roots firmly on the social structure of the Province will be ruinous to all.

**Q. 14.** We cannot advocate the abolition of Permanent Settlement or the zamindari system.

If, however, under any circumstances the zamindari system is abolished, a compensation of at least 20 times of the net annual income and a surcharge of 15 per cent. for the compulsory nature of the acquisition, should be provided for all persons affected.

**Q. 16.** It will revolutionise the society. The social structure of Bengal has been built on the bed-rock of Permanent Settlement. Investments made, obligations created, public and charitable institutions founded and fostered under the care and financial assistance of the landed aristocracy and the impetus given to art and advancement of learning will receive a rude shock by the abolition of the Permanent Settlement. Chaos and confusion will take the place of peace and prosperity.

**Q. 16 and 21.** We are strongly against the abolition of Permanent Settlement and zamindari system. If, however, the zamindari system goes there is no sense in retaining middlemen's interests which should also be brought up along with zamindari interest on payment of compensation.

**Q. 19.** We do not think the raiyats would like to come under the direct control of the Government. We are not aware of any advantages of khas mahal tenants. On the other hand the rate of khas mahal lands are higher. The payment has to be made promptly, otherwise harassing and vexatious methods are adopted. It is most likely that the raiyats will prefer to remain under the zamindars who accommodate them in various ways.

**Q. 20.** We are of opinion that Permanent Settlement gave an impetus to subinfeudation and creation of permanent tenures by

**zamindars.** The creation of intermediate tenures by the zamindars have not in any way affected the rights and interests of the raiyat whose obligations to the landlords remain the same whether he is holding directly under a zamindar or under an intermediate tenure-holder. The rights are now well defined and protected by the tenancy legislation and they cannot be adversely affected by the creation of mediate tenures by the zamindars.

The immediate tenure-holders share the profit due to the zamindar, and if any body is a loser by its creation it is the zamindar. But as already stated such tenures were created under necessity. On the other hand by the creation of intermediate tenures there has been a distribution of wealth.

**Q. 21.** Has been answered with question 16.

**Q. 23.** Occupancy right of the raiyats was not the same nor so extensive during the Muhammadan period as it is now. The Muhammadan rulers did not disturb the right either by adding to or by taking away any of the rights enjoyed, in the Hindu period, by the tenants when it consisted of merely the customary right to cultivate the land and enjoy the produce, except in some minor details of assessing rent.

The expression "right of occupancy" was used for the first time by the legislature in 1859, and instead of the classification of raiyats into the khudkast and paikast a new one was introduced more favourable to the tenants and the rights have gradually been developed.

Section 6 of Act X of 1859 (*see also Act VIII of 1869, section 6*) laid down "every raiyat, who shall have cultivated or held land for a period of 12 years, shall have a right of occupancy in the land so cultivated or held by him,..... so long as he pays the rent payable on account of the same."

The privileges attached to this "right of occupancy" are considerably inferior to those of the owners of property. Before the amendment of 1928 this right was not transferable except under local custom but was heritable though not bequeathable.

In default of heirs the right was extinguished and the landlord became entitled to possession and to settle the land with other raiyats (*see Act VIII of 1885, section 26: also 8 W. R. 60 Jateeram-v-Mangloo.*

His right to use the land was restricted. He could use it without materially impairing the value of the land or rendering it unfit for cultivation. He had no right to dig tanks or erect any substantial structure. In the Hindu period society was not as complex as it is to-day. Population was small and the uncultivated area was vast. There were not enough tillers for the culturable land available. The

position was therefore simple. Cultivation was a necessity. All that the landlord had in those early days to insist upon was cultivation. So, "the right to possess and cultivate the land on regular payment of rent" which are the incidents of occupancy right when it was first introduced (under British rule) might not have been ever questioned and the cultivators enjoyed these rights in the Hindu period.

But at the same time we have to note that while the cultivator had the right to occupy and cultivate the land held by him yet there are provisions in the Hindu system which go to show that the position of the cultivator was less secure than it is to-day when he can hold on with impunity or without fear of eviction a plot of land which he may or may not cultivate as he chooses.

Raiyata who took land and did not cultivate were, for this mere neglect of duty, punished or ejected. Vyasa says in Vivada Ratnakar:—

ক্ষেত্ৰং গৃহীত্বা ষৎ কশ্চিদ  
ন কুর্যান ন ত কাৰয়েৎ ।  
সামিলে তৎকলং পাপোঁ  
রাজে দণ্ড তৎ সম্ম ॥

translated it reads:—

"If a man after taking a field with the object of cultivating it fails to do so, either himself or through the agency of others, he should be made to pay to the owner a proportionate share of the corn which the field could have yielded if it were cultivated and, in addition, a fine to the king." Narada also has laid down in Narada Smriti Chap. XI 24:

বিক্রয়মানে ক্ষেত্ৰে চেৎ  
ক্ষেত্ৰিকঃ পুনৰাবৃজ্ঞেৎ ।  
থিলোপচাৰং তৎ সৰ্বঃ  
দষ্টা ক্ষেত্ৰমৰ্প্প যান ॥

Translation:—"When a field is abandoned by its owner without opposition, the cultivator is entitled to the whole of the produce and the owner would not get back the land without paying the cost of the clearance and cultivation." Jajnavalka says—Jajnavalka Bombay edition, p. 218:

কালাহিতমপি ক্ষেত্ৰং  
ষ্ণে ন কুর্যান ন কাৰয়েৎ ।  
ন প্ৰদাপোক্তি কলঃ  
ক্ষেত্ৰমচেন কাৰয়েৎ ॥

"When a man does not cultivate, either himself or by means of others, he should be made to pay to the owner of the field the amount of grain which the field would have yielded if it had been duly sown with crops." Manu also says in Chapter VIII, Sloka 243—

କ୍ଷେତ୍ରିକମ୍ୟାତ୍ରେ ଦଶଙ୍କୀ  
ଭାଗାନ୍ଧିଶଶୁଦ୍ଧେ ଭବେ ।  
ଭାବୋକ୍ତ ହଣ ଭୂତ୍ୟାନ୍ତଃ  
ଅଜୀବାଏ କ୍ଷେତ୍ରକର୍ତ୍ତ୍ଵ ତୁ ॥

Translation:—"In case of damage to crop on account of the negligence of the land owner he should be fined ten times the king's share of the produce; if such damage has been caused by the negligence of the servant of the owner of the land and without the knowledge of the latter then the owner should be fined half of the above.

In Kautilya's Arthashastra Chapter 1, 47 we find the provision "Land may be confiscated from those who do not cultivate them and given to others; or they may be cultivated by village labourers and traders, lest those owners who do not cultivate them might pay less." In the same passage of Kautilaya we find the provision—"Land prepared for cultivation shall be given to tax-payers *only for life*."

These and similar provisions go to show that the raiyats had no such indefeasible right in the land as they have to-day. Their right of occupation might be extinguished not only for non-payment of rent but also for not performing cultivation properly.

In the Hindu system they had no right of transfer. The raiyats were only entitled to enjoy the usufruct subject to the payment of rent.

**Q. 24.** Has been answered with question 4.

**Q. 25.** We are not in favour of confining the right of occupancy to actual cultivators only.

**Q. 27.** It was the intention of the Permanent Settlement Regulations to protect all classes of subjects including non-agriculturists, as it appears from Articles 6 and 7 of Regulation 1 of 1793 which reserve the power of the Government to enact such laws for the protection of the dependent talukdars, raiyats and other cultivators of the soil, and these certainly included non-agriculturist tenants. We suggest that occupancy right should be given to non-agricultural tenants as well.

**Q. 28.** Right once vested should not be divested, and the right of occupancy once acquired should not be taken away merely because the land or any portion of it has been converted to use for non-agricultural

purposes. This will give rise to complications and will put a restriction on the occupancy raiyats to use their land say for shop purposes or for cottage industries, etc.

No additional tax should be levied on account of such conversion.

**Q. 29 and 30.** We have no authentic data. It may be that the number of bargadars is increasing and that due to the following causes :—

(I) The cultivators are losing the lands owned by them owing to—

(a) poverty caused by the fall in the price of agricultural produce;

(b) deterioration of soil affecting productivity;

(c) unrestricted right of transfer conferred by the Bengal Tenancy Amendment Acts of 1928 and 1938.

(d) the operation of the Bengal Agricultural Debtors Act which has practically destroyed the sources of credit necessitating the transfer of lands for the purpose of raising funds in times of need.

The cultivators so deprived of their lands are taking to barga in order that cultivation may be economical and also to make up the deficiency of their income.

(II) As a result of fall in prices without any appreciable fall in the wages of labourers many non-cultivating raiyats who used to cultivate lands by employing hired labour find it profitable to let their lands in barga thereby creating a demand for bargadars.

(III) Migration of the non-cultivating bhadraboghe raiyats to towns leaving the lands in charge of bargadars.

(IV) The lands sold for arrears of rent and made khas by landlords are let out in barga when zamindars find it difficult to resettle the lands with the original tenants or other persons. It may be noted that the latter sometimes prefer barga to tenancy right because there is no risk or investment of capital expenditure involved in barga.

We fail to see how the denial of statutory right to bargadars by the Amending Act of 1929 could increase their number.

**Q. 31.** A majority of the bagadars also hold land in raiyati or under-raiyati right. They take in addition to their raiyati land such quantity in barga as would make up the area sufficient for a plough, i.e., about 15 bighas. So it is not possible to say what area of land is normally held by a bargadar in bhag. That depends on what area he holds in raiyati or under-raiyati holding, the condition of his cattle and his own capacity.

**Q. 32.** We do not see any necessity or principle why "Occupancy right and other rights" should be extended to bargadars. Those who take land in barga are not ill-treated in any way. The bargadars are the masters of the situation and we cannot conceive of any hardship they have to undergo. They themselves nurse no grievance and are contented. As Mr. Sachse rightly observes in his Mymensingh District Gazetteer at page 69. "Nearly all the bargadars have jote lands of their own. They employ their surplus ploughs in cultivating the lands of widow neighbours or of those who have lost their cattle. If the owner wishes to oust them there are always others glad to give them new lands on the same terms. On the other hand there are many who have cultivated the same lands on those terms for generations.....They are an unambitious class and apparently quite content with the profit they get. Generally speaking the bargadars and their landlords are on good terms". And at pages 45-46 in his Mymensingh Settlement Report—

"So far as we saw in the mafassal, the system (barga) works with remarkable smoothness and we never had any quarrels about the distribution of the crops or the disposal of the by-products."

So to imagine grievances where there are none and to provide remedies therefor, always create trouble and secure no benefit.

The barga system is in existence in this country for a long time. We find references to it in Manu, Chapter IV, 253, in Bishnu Chapter 57, sloka 16, we get आङ्किः and Jajnavalka Achara Adhyaya, Sloka No. 166, अङ्कनीरौ meaning a cultivator who takes half the crop in return of labour.

In Kautilya's Arthashastra, Chapter XXIV, 118, we get—"Fields that are left unsown owing to the inadequacy of hands may be brought under cultivation by employing those who cultivate for half the share of the produce; or those who live by their own physical exertion may cultivate such fields for 1/4th or 1/5th of the produce grown."

From the earliest time up to the present day this system is in existence. No body ever thought of giving the bargadars a raiyati right. It is since 1928 that suggestions are being made in responsible quarters that they should be given a right of occupancy.

In our opinion the bargadars need no protection. It has never been the practice among non-cultivating raiyats to change bargadars. As a matter of fact in most cases the same bargadar has cultivated the same land throughout his life and after him his son if there was one capable of carrying on cultivation. No body ever thinks of a change unless in exceptional cases where the bargadar is highly dishonest or

incapable. The barga system has been working smoothly. In most cases the owner raiyat does not consider it necessary to have anything in writing from the bargadar evidencing the contract between them. The relationship between them was and is still cordial. But in some places discord and disaffection are being created between the two classes who are interdependent and should live together in harmony as all members of a village community should. As already stated the bargadars, in our opinion, need no protection.

**Q. 33.** The barga system is a sound system. It is a simple partnership between the owner and the labourer. While the owner is to supply the land and in some cases seed and (or) manure, the cultivator supplies labour and cattle, etc. Those living in villages and depending on the produce of the land let out in bhag, bestow time and attention to supervise cultivation. The owner and the bargadar take in most cases half and half. The owner has to pay the landlord's rent and cess, etc., out of his share. When a bargadar has worked the same land for some time the owner is ready and willing to assist him in his times of trouble.

On principle the barga system is sound, simple and fair to both and is a social necessity. The system is in existence in some form or other in every part of the world even in countries like Italy, Australia, United States, France, Spain, Portugal and other places where agricultural improvement has reached its height.

The only difficulty now is that raiyats who have some lands of their own, devote more attention to them and much less to the lands taken in barga. They do not cultivate such lands in time nor do they weed the fields properly when necessary. Paddy is not timely reaped. These result in loss. Those cultivators who have no land or only small holdings of their own take proper care and attention of the lands taken in barga. Except for the negligence of some of the cultivators there is no other ground to hold that the system is not economically sound. The fear of being turned out of the land is a salutary check to any negligence in cultivation or dishonesty on the part of the bargadar.

The system is also economically sound to the bargadar himself. He has not to lay out capital to secure a plot and to pay the rent and so runs no risk or failure of crop. A bargadar is certainly economically better off than a mere agricultural labourer.

**Q. 34.** If bargadars are given occupancy right—the result will be a sudden dislocation of the social structure. It will not prove to be of any standing benefit to the bargadars or to the society at large. It will only impede the movements of both the owners and the bargadars. It will create much discord.

We presume that when the words used in the question are "Occupancy right" the right that is meant to be given includes all the rights of an occupancy raiyat as enjoyed to-day. If so, the effects will be:—

(1) The occupancy raiyat, whose land the bargadar takes in bhag, will be deprived of his right as there cannot be two owners of the same land with identical rights independent of one another. In fact, it means forcing out the existing raiyat and replacing him by another. Such things cannot have healthy effect on society and the State will be running against its first duty which is to preserve the sense of security among the subjects.

(2) The bulk of the population lives in villages. All of them are not cultivators but most of them hold lands in raiyati or other rights. It is on the produce of these lands that the non-cultivating population of Bengal depends for its livelihood. Most of these raiyati holdings are not very large and yield only one crop a year. It would be unprofitable to maintain servants and bullocks all the year round for cultivation of these small raiyati holdings. The only way of deriving some income out of these lands is by letting them out in bhag.

(3) The expenses of many religious institutions and worship of deities are met from the produce of lands dedicated or appropriated for the purpose. These lands are in most cases let out in bhag. To carry on the cultivation of these lands by hired labour will not be possible for want of supervision and management as it would be expensive; and where the holding is small, it would be quite unprofitable.

(4) To give bargadars a right will not only adversely affect the non-cultivating raiyats but the cultivating raiyats as well. A cultivator holding say 10 bighas of land in occupancy right dies leaving an infant and a widow. None of them can cultivate the land nor supervise cultivation. The widow cannot let out the land in bhag because the bargadar will then acquire a right and the minor, when he comes of age, will not be entitled to get it back. To carry on cultivation of these 10 bighas of land with hired labour and cattle is out of the question because the cost will be much in excess of the income.

(5) A large majority of Brahmins, many of the Brahmattorders, live on the produce of land. Religion prohibits Brahmins from cultivating lands with their own hands. The sage Parasara says that they should cultivate through others (Chapter 2, Sloke 2). To deprive them of their present right in land would be to deprive them of their means of livelihood.

(6) When law seeks to create some right which is opposed to or not supported by custom or usage, it must be based on very strong reasons. Moreover the principle underlying such law must be capable of being uniformly applied, (and must not be inconsistent with the existing system of jurisprudence).

If the bargadar is to be given a right to the land merely because it is by his labour that the produce is obtained from the land, why should not coolies working in coal mines be given right to the mines because it is by their labour that coal is extracted. The same principle may apply in other cases, e.g., in mills, factories, etc.

**Q. 35.** Generally, the proportion is one-half but it varies in localities and depends upon the rules regulating demand and supply. No maximum limit should be fixed by law but it should be left to be adjusted according to local conditions. We think the fair proportion would be one-half.

**Q. 36.** Wages of agricultural labourers vary in different localities. Generally it ranges from four to five annas but in the harvest season and jute cutting and steeping season it rises even as high as twelve annas or even more. Their economic conditions are somewhat similar to those of under-raiyats holding small areas and bargadars but the latter have cattle and plough and are of a higher status.

**Q. 37.** Originally occupancy right was a personal right attached to the status of the raiyat rather than a right in the soil. It was heritable but not alienable, except under exceptional circumstances and even then if local custom permitted it and landlords consented to the transfer. The Hindu idea was that "land once acquired was property which was for benefit of all generations to come." The Muhammadan rulers had not disturbed the rights of the raiyats cultivators either by adding to or by taking away from them though the amount of rent had been increased. Under the British rule the right of occupancy was introduced in 1859 when it did not differ much in principle with what existed before. But by gradual statutory enlargement the occupancy right which was a personal right has now become a right in the soil. We are of opinion that the unrestricted right of transfer given by the Act of 1928 has led to fragmentation of raiyati holdings, owing to the free exercise of the right by the raiyat. The Act of 1938 which gives the raiyat wider rights of transfer, will, we believe, increase the tendency of transfer and thus tend to dwindle his holding still further. The majority of the purchasers are however agriculturists though all of them are not actual cultivators themselves. Persons who are not actively interested in or dependent on agriculture have in most cases purchased only when compelled by circumstances such as in satisfaction of loans advanced. We are strongly of opinion that the right of transfer has been and will continue to be prejudicial to the interest of the cultivating raiyats and also to cultivation in general. It is in effect a suicidal right, i.e., a right which deprives the cultivator of his only means of subsistence. So we are opposed to any right of transfer being given to the cultivating raiyats who are ignorant of their own interest. To restrict transfer

only to agriculturists will not be practicable and furthermore it will be prejudicial to the interest of the transferor inasmuch as the value of land will, in consequence, naturally considerably fall down.

In our opinion it will be serving the cultivator's interest best to deny him the right of transfer and secure him the right of occupation and enjoyment of the land.

**Q. 38.** The size of an economic holding is, in our opinion, 5 acres.

**Q. 39.** The size of many raiyati holdings is uneconomic. All the causes suggested are tending to further subdivision and fragmentation of holdings.

**Q. 40.** In our opinion consolidation of holdings is desirable but not practicable without taking recourse to exproprietary legislation to which we are opposed on principle, as it tends to shake the sense of security which cannot but lead to social unrest. We would however suggest that means should be devised and steps taken to prevent further fragmentation of holdings.

**Q. 41.** Consolidation of holdings by exchange should be a matter of amicable settlement. It ought to be encouraged by all means excepting by legislation. We have expressed our views on this subject in our answer to question 40.

**Q. 42.** We are not opposed to accumulation of large areas in one particular hand. Landed property is by nature such that in order to derive some income out of it one has to employ others and thereby share the income with them. The only apprehension is that it may lead to rack-renting. But to prevent this we would suggest that just as the maximum rate of interest has been fixed by the Money-lenders' Act, a maximum limit to rent should be fixed, making exaction beyond that limit punishable.

This will discourage holders of large areas from letting out the land on cash rent. The only other way by which he would be able to utilise the land will be by letting it out in bhag or by cultivating it with his own plough and hired labour. If he takes recourse to the former, those employed will be working under a well tried system and have no apprehension of being exploited. If the latter, the labourers will get wages at the rate prevailing at the locality. The landholders' interest in either case will be to see that cultivation is properly done and he will of necessity have to devote his attention to cultivation. This will necessarily improve cultivation.

**Q. 43 and 44.** Coparcenary is detrimental to good cultivation. Cultivation suffers not because there are too many persons to enjoy the usufruct but because of the splitting up of the area into uneconomic

holdings. The only way out of it that appeals to us would be to keep the land a joint family property with the eldest male member of the family at the head of management, who will manage cultivation and distribute the usufruct less the cost of cultivation and other incidental charges among the members according to their respective shares.

**Q. 45.** Insistence on joint collection will give rise to complexities. No such legislation compelling joint collection should be undertaken.

**Q. 46.** There is nothing in the Regulations to show that the rents of raiyats were intended not to be liable to enhancement. The only class of tenants protected from enhancements were "istemrardars" who had held their land at a fixed rent for more than 12 years and those whose rents were not enhanceable under contract (Article 49, Regulation VIII of 1793). In the absence of any similar protection for other raiyats, it cannot be said that the Permanent Settlement did not contemplate enhancement of rent. As a matter of fact rent by its very nature is enhanceable.

**Q. 47.** We do not think so. Fixity of rent was not provided for in any case excepting in the case of istinmaridars as stated above.

**Q. 50.** That the Government provided for enhancement of rent by subsequent legislation clearly indicates that it had never been the intention of the Government to keep the rents of tenants unalterable.

**Q. 51.** Future settlements of waste lands were never intended to be made at the pargana rate as will sufficiently appear from the provision of Article. Regulation VIII of 1793 which empowers the zamin-dars to settle such lands "in whatever manner he may think proper."

**Q. 52.** In determining fair and equitable rent the following factors should be taken into consideration:—

- (a) Quality of land and its productivity.
- (b) Kind of crop for which the land is suitable.
- (c) The situation of the land.

Customary rates as obtain in present times were fixed with reference to the above factors and as a result of experience. Rents so fixed cannot but be favourable to both the landlord and the tenant. We therefore recommend that customary rates should not be disturbed.

Competitive rent is open to serious objection. Rent fixed by competition tends to be so exorbitant as to be beyond the capacity of the land, and the landlord may also find it difficult to recover the same. Thus in the long run both the parties are likely to lose.

"Economic rent" and a definite share of the produce cannot be supported inasmuch as in both the cases the recoverable amount would be unstable and the appraisement will create troubles and complexities.

A percentage of the market value of the land is also difficult to arrive at. Such assessment is apt to be arbitrary. In the first place, the market value may not be correctly determined and secondly the percentage to be fixed may be unfavourable to one party or the other.

**Q. 53.** It is generally at the customary rate fixed with reference to the above noted factors that rents are paid by cultivators. These rates vary according to various classifications of land. During the Hindu period the customary rates were based on certain share of the produce varying from one-twelfth to one-sixth according to circumstances.

From an examination of zamabandi papers which were prepared by Government as well as by private zamindars about hundred years ago in the districts of 24-Parganas, Nadia, Jessore, it is seen that assessment of rent was based on classification of lands according to the crops they yielded then. The major divisions were three—

- (1) Bastu or Vita (homestead).
- (2) Sali.
- (3) Suna.

The minor divisions under the last two heads were four, viz., awal (first class), doem (second class), soem (third class), chaharam (fourth class).

The above classifications and subdivisions were made according to the quality, situation of the lands and the quantitative yield and nature of the crops that were raised on the land. Vita or bastu land (homestead) fetched the highest rent in most of the Bengal districts. In the district of Barisal, Dacca, Murshidabad and some others the classifications and the divisions of land for the purposes of fixing fair rent were many more. But it may be said that lands are generally classified under three heads of awal, doem and soem, i.e., first class, second class and third class according to the situation and productivity and assessed with rents prevailing in the locality for the respective classes. Competition also plays a part infixing the rent but such cases are rare. Rates sometimes vary for lands of similar value in adjoining villages.

**Q. 54.** No, it has not been our experience that the poorer and weaker tenants pay higher rents in many estates.

**Q. 58.** According to Sastric injunctions every piece of land is liable for a certain share of produce as "vali" or rent to the king. The idea of taxing the income was unknown in ancient time but "sulka" or tax on trade and commerce was in vogue. There is no reason why a tax on agricultural income should be substituted for rent in supersession of established usage and custom based on Sastras. Moreover, the proposed innovation cannot have any advantage over the present system. Tax on agricultural income will be unstable. In years of scarcity the public finance is likely to be seriously affected. If income below a certain limit be exempted from the tax, a large number of persons holding lands will escape from the liability altogether resulting in a serious loss of revenue. Tax on agricultural income cannot be supported on any ground whatsoever.

**Q. 61.** Enhancement on the ground of rise in prices is, we think, based on a sound principle, inasmuch as such enhancement brings about a stability and an equilibrium in the social order. None of the parties concerned is subject to any loss by such enhancement.

**Q. 62.** Yes. No distinction is practicable.

**Q. 64.** No.

**Q. 77.** The general policy of the Government and land system are partially responsible for the uneconomic condition of the raiyats. The reasons are:—

(a) As a result of fragmentation of holdings due to unrestricted transfer, and subdivision of tenancy as provided by the Bengal Tenancy Amendment Acts of 1928 and 1938 and the operation of the law of inheritance the size of an average holding has been considerably reduced so as to render it uneconomical.

(b) Accumulation of arrears of rent has been made possible by the Tenancy legislation, ultimately bringing ruin upon the tenants.

(c) There is nothing in the Tenancy laws to compel the tenants to conform to the rules of good husbandry with the result that they sometimes neglect their duties.

(d) The recent tenancy legislations have given an impetus to litigations and estranged the feeling between landlords and tenants.

**Q. 73.** We have got no evidence to show that the productivity of Bengal is generally on the decrease but we think it is so. The main reasons that strike us most are (i) want of application of proper manure, (ii) practice of putting the same land under crops generally of the same kind every year without giving it any rest—a necessity arising out of insufficiency of lands in a particular hand, (iii) soil

deterioration by deposit of sand in some areas owing to excessive rush of water through the insufficient passages left of water-courses and rivers by railway bridges, (*iv*) drying up of rivers owing to obstructions caused by the railways resulting in (*a*) deprivation of some areas from the advantage of natural manuring caused by the deposit of silt owing to inundation, and (*b*) the denial of irrigation facilities hitherto afforded by those rivers and the connected water-courses, (*v*) want of proper irrigation facilities.

Government has done practically nothing to improve the fertility of soil. The Agricultural Department seems to be a failure. The report of the Royal Commission on Agriculture also says that "the agricultural departments are not yet in a position to give definite advice in regard to economic use of fertilisers." The distribution of manures and improved seed by the department has been like a drop in the ocean.

**Q. 80.** The income of the cultivators may be increased by all the means suggested in the question excepting that for establishment of a system of cattle insurance which we do not think would be practicable in this country. Cultivators are generally very conservative and they would not take to any new mode of cultivation or the cultivation of any new crops for any amount of persuasions. If however Government starts small agricultural farms in every union and demonstrates the improved methods of cultivation of the common as well as of new profitable crops to the cultivators and proves that the Government method is unquestionably more paying, it is expected the cultivators will take to those methods and profit thereby. Without such practical demonstration in the very eyes of the cultivators, no amount of lecturing propaganda will come to any use. Good arrangement for marketing commodities will add considerably to the income of the cultivator. Co-operative marketing organisations should be started in every union. Legislative measures should also be adopted to fix the minimum prices of industrial crops, such as jute, sugarcane, etc.

Cottage industries should be organised on co-operative lines and financed by the Government. Unless there is a strong organisation to back them up, they will in no time be crushed in these days of keen competition.

**Q. 81.** Over-population may be one of the causes of distress but that does not seem to be the main cause. There has been over-population in certain districts but the population in other districts is thin enough to accommodate more men. We find from Season and Crop Report of Bengal 1934-35, that the area of the culturable waste in the province is about 1/4th of the net area cropped. These waste lands may be brought under cultivation to relieve the pressure in certain areas.

If that is done the area of culturable land per head of agricultural population comes to about 1·05 acres. This area of 1·05 acre does not seem to be quite insufficient for maintaining one man provided it is well cultivated. So we think the question of over-population has not yet reached a hopeless position, though it has reached perhaps the maximum limit in respect of the agricultural need of the province.

**Q. 82.** The way to relieve the pressure would be to bring the waste lands under cultivation and to organise cottage industries as well as large factories. Fruit growing, poultry farming, dairy farming should also be encouraged. Dying and dead cottage industries should be revived, and good marketing arrangements should be provided for. Government should take the initiative in all cases and help the organisation with men, money and other resources before private assistance may be expected to be forthcoming.

We do not think that starting of only big industries will be of any considerable use unless small home industries are also organised.

**Q. 83.** The operation of the Bengal Agricultural Debtors Act has dealt a death blow to agricultural credit. Private money-lenders who supplied perhaps 90 per cent. of the credit have of necessity stopped advancing loans and the Loan Offices have closed their doors. The Co-operative Department, which has turned itself in this province to an ordinary money-lending institution, is far from being in a position to meet the vastness of the problem. There is practically no organisation either Government or private which can effectively tackle the question. Our suggestion is to start Government banks in every sub-divisional town for the purpose of advancing short term loans to agriculturists.

**Q. 85.** The co-operative credit societies have failed in tackling the credit problem of the agriculturists. They have turned into ordinary money-lending institutions and advanced money to the agriculturists regardless of the principle of co-operation. The result has been that they have added to the indebtedness of the peasantry.

**Q. 87.** We support this view.

**Q. 89.** The machinery for realisation of rent is really very costly and cumbrous. The effects are that the payment of rent is delayed beyond all measure causing great hardship to the landlord, and also that it saddles the tenants with heavy costs of suit. Provision for enforcing prompt realisation of rent by some summary procedure though may seem at the first sight to cause hardship to the tenant, is really a matter of distinct gain to him in the long run as such provision prevents accumulation of arrears of rent which ultimately tends to deprive

him of his holding as he naturally finds himself unable to clear off the heavy arrears with his scanty resources. So in our opinion some provision for speedy realisation of rent would be beneficial both to the landlords and the cultivators. It may be noted that certificate procedure is no less dilatory and costly. The method to be adopted should be cheap and expeditious.

**Q. 90.** Recovery of rent through the Public Demands Recovery Act which has of late been taken away could not improve the situation. In the first place the procedure is not less costly . Experience has shown that by distress warrants the arrears cannot be successfully recovered. In most cases immovable properties have to be proceeded against. Such proceedings are as much dilatory as the ordinary Civil Court proceedings. The court-fees calculated at the rate provided for Civil Suits are required to be paid. This fee is payable by the tenants. But in practice the landlord is made to pay in view of the fact that chances of cash realization of dues from the tenant are few and far between.

What is needed is the abolition of the dilatory process whether the proceedings are taken in ordinary Civil Courts or in certificate courts. The procedure should be simplified and court-fees should be realized at a concession rate.

### Reply by the Bengal Mahajan Sabha.

**Q. 3.** It cannot be denied that the Permanent Settlement has been of great value in shaping the social and economic structure of Bengal but the zamindars as a class did not take any lead in the economic development of the country as such.

As more and more waste lands began to be cultivated by the increasing population, the landlords took their share of the increase in the production and took nazarana as settlement of the rents of the new lands. Thus after a few years of the Permanent Settlement, when they had been able to consolidate their position against the risks of the Sunset Law, they began a career of mere enjoyment of profits. They even gradually divested themselves of the trouble of direct management and created leases and taluks which have culminated in uneconomic and almost endless subinfeudation.

With the passing of the Regulation VIII of 1819 and other regulations, the security of the landlords' rights increased. The laws of inheritance helped in the fragmentation of the landlords' interests and a career of enjoyment of profits without worry attracted investment of all surplus money in loans on the security of landlords' interests. This has gone on to such an enormous extent that all surplus money even in the hands of all professional men went towards the mortgage and purchase of landlords' interest.

Thus the system instead of helping the economic and industrial development of the province, has rather retarded the economic growth thereof.

**Q. 4.** This is a controversial question and now, more or less of an academic and historical interest and no useful purpose will be served by going into the matter at this stage.

**Q. 5.** *Vide* answers to questions 3 and 4 above.

**Q. 6.** The expectation has not been fulfilled. The large increase in the area brought under cultivation since the Permanent Settlement is due mainly to the increase in population and the enterprise of tenants, which was the outcome of the struggle for existence.

The zamindars as such has no initiative in the matter. But the fact that they lived in the villages and spent the major portion of their income in luxuries and other amenities of life, available in the village indirectly helped the tenants in their enterprise. Even their extravagance, so long as it was confined to their village, bettered the economic condition of the tenantry.

But since 1877 the landlords gradually changed their venue of expenditure and extravagance to the cities, which along with other causes, led to the present deterioration of the economic condition of the country.

**Q. 7.** None of it can be ascribed only to the industry and good management of zamindars. The increase is mainly due to the increase in cultivation and re-cultivation of waste lands by the efforts of the tenants mainly. An increase of about 2 crores may be ascribed to enhancement of rents.

**Q. 8.** From 1793 down to 1827, the tenants had the upper hand and the Government had to come to the rescue of the zamindars in the matter of realisation of rents from tenants. The zamindars were then merely trying to consolidate their position against the rigorous of the Sunset Law and also against the rigorous of the *quid pro quo* (a) and (b), mentioned in question 1.

From 1827 to 1873 the position changed and the zamindars tried to assert themselves, the result of which was the agrarian riots of 1873 and the appointment of the Rent Commission of 1879, which culminated in the Bengal Tenancy Bill of 1883 and the Act of 1885.

**Q. 9.** *Vide* answers to questions 3, 6 and 7 above.

**Q. 10.** No. From its very inception the Permanent Settlement was not in the interest of the country economically nor for the greatest good of the largest number, nor has it led to a revenue system which is to the benefit of the province. Its object was to ensure the collection of revenues of the East India Company.

**Q. 11.** (i) No.

(ii) and (iii) Yes.

(iv) It was true to some extent in the middle of the nineteenth century, but the position has substantially changed since then.

**Q. 12.** The abolition of the system may be necessary on grounds, not at all covered by the grounds mentioned in question 11.

**Q. 13.** The continuance of the Permanent Settlement involved not only a loss to the extent of over 75 per cent. of the raiyati assets, but the major portion of the assets is at present uneconomically filtered away. This can be removed by (i), i.e., by the total abolition of the zamindari system including all subinfeudations and acquisition of all agricultural lands by the State for economic planning of agriculture and not by (ii) and (iii).

(iii), i.e., the imposition of tax on agricultural income, can only lead to harassing complications, and forced sales, which will not result in any economic amelioration of the country.

**Q. 14 and 15.** Compensation should be paid to the zamindars and the under-tenureholders and raiyats *pro rata*, as follows:—

(Gross Rent Roll) minus (the Rent or Revenue payable to superior landlord or to Government plus 12½ per cent. of the gross rent roll as Collection Charges, plus his share of the Cesses payable) should be the basis of compensation.

20 times of the above should be paid as compensation.

This should be given in 3 per cent. debenture bonds, repayment to begin after 5 years; in the meanwhile the 3 per cent. interest should be paid quarterly.

But in cases of purchasers of proprietary interests of lands, on sales for arrears of revenue, cess or rent and also in execution of mortgage or money decrees, since the 1st January 1929, which can be taken as the beginning of the era of depression, compensation should be paid on the basis of their purchase money together with simple interest at 10 per cent. per annum from the date of their respective purchases.

It is estimated that the total sum thus required would be more than 100 crores, which should be redeemable in 55 years, after the first period of 5 years.

**Q. 16.** It will increase middle-class unemployment, which is not without remedy.

**Q. 17.** Yes. The whole structure of economic amelioration will be frustrated if the raiyat does not come directly under the Government on the basis of a new settlement.

**Q. 18.** The system of collection should be simplified generally on the lines of Regulation VIII of 1819 and should not cost more than 5 per cent. of the gross collection.

**Q. 19.** Under the present conditions, the raiyats may not, as human nature is averse to drastic changes. But eventually the raiyats will be benefited by the system, if the administration is moral, sympathetic and alert in case of distress and natural calamities.

**Q. 20.** Answered above.

**Q. 22.** The homesteads should be left to them rent-free and the khas lands, under actual cultivation by them, should be dealt with in the same way as the lands of raiyats.

**Q. 23 and 24.** It is a question of historical interest and is of little practical value now.

**Q. 25 and 26.** Occupancy right should be confined to the tenant actually cultivating the soil.

**Q. 27.** Except in the case of homesteads, non-agricultural tenants should not be given occupancy rights.

**Q. 28.** There should be an additional tax on all converted holdings on the basis of income.

**Q. 29.** Yes. Mainly on account of purchase of holdings by creditors.

**Q. 30.** Yes.

**Q. 31.** The area normally held by the bargadar is to the extent of the capacity of his plough. Majority of the bargadars are themselves raiyats and under-raiyats, as they have to take lands in barga, owing to their own holdings being uneconomic.

**Q. 32 and 36.** The barga system is the result of the fragmentation of holdings. This should be remedied and prevented, so that nearly all bargadars may have economic holdings and the bhadraloks will have their own ploughs, worked by paid labourers.

**Q. 37.** Yes. All voluntary transfers should be absolutely prohibited.

**Q. 38.** 3 acres plus one-fourth acre for the homestead.

**Q. 39.** Yes.

**Q. 40 and 41.** Consolidation of holdings is desirable and practicable and it can be brought about by giving special facilities to the cultivator to consolidate his holding by exchange or increase in its size by purchase, with the help of State funds. This can be spread over 5 to 10 years to enable State funds and State administrative machinery gradually to acquire the surplusage of the uneconomic or the profiteering large areas in the hands of single individuals.

**Q. 42.** Yes; the limit should be the extent of the capacity of his plough, with which he can profitably cultivate his whole economic holding, with his own labour, with the assistance of the members of his own family without incurring any cost of production, i.e., 3 acres.

Further increase on that area should be prevented by legislation, which should also prohibit absolutely transfer of raiyati holdings.

Raiyati holdings should be—

- (a) absolutely non-transferable, non-mortgageable, and non-partiable;
- (b) heritable, by one recorded nominee of the last holder; or by the eldest or the youngest in the absence of such record;
- (c) liable to sale for non-payment of rent.

If any raiyat by his thrift accumulates sufficient funds, he will be in a position to acquire other holdings for his other sons or dependants, at the sales held for non-payment of rent, by impecunious, lazy or improvident raiyats.

**Q. 43.** Certainly it is detrimental to good cultivation and this can neither be minimised nor prevented except by change in the law of inheritance.

**Q. 44 and 45.** In the scheme above adumbrated, estates and tenures will cease to exist and there will not be any difficulty in collecting the rent.

**Q. 47.** No. On the language of the Regulations and subsequent Acts.

**Q. 48.** Does not arise.

**Q. 49.** There is no case for reducing the rents of tenants, and any attempt to take back the economic situation to the position obtaining at the time of Permanent Settlement, would be futile.

The grievances, if any, will be sufficiently remedied by the procedure adopted in the scheme adumbrated in these answers.

**Q. 50.** The prices of staple food crops have been accepted as a sure criterion for judging the economic position of the cultivators all over the world. To fix the incidence of taxation permanently to the condition prevailing in the eighteenth century, when rice was selling at 30 seers per rupee and ghee was selling at 3 seers per rupee, would be economically unsound.

**Q. 51.** No.

**Q. 52.** All the six systems have been examined from time to time since 1776 and have been found, more or less, unsuitable.

In this scheme it is suggested that the rent of the raiyati holdings should be fixed uniformly, except that it will be subject to alteration on account of rise or fall of the price of staple food crops. This would leave sufficient surplus in the hands of cultivators, whose holdings demand more industry, as in the case of holdings yielding double crops. Even in the case of single-crop-yielding holdings, the cultivators will have enough leisure left to be engaged in remunerative subsidiary occupations.

**Q. 53, 54 and 55.** Rent should be fixed at a uniform rate of Rs. 2 per bigha, throughout Bengal; this is based on a consideration of the productivity of the land and the cost of living of the cultivating unit. It will mean no hardship to any class of tenants, and as the rate is to be fixed per bigha at a uniform rate, no fresh record-of-rights would be necessary. A fresh and final record-of-rights will have to be prepared after the consolidation and adjustment, as contemplated in answers to questions 40 and 41, have been completed.

**Q. 56.** No.

**Q. 57.** Yes; as above. The period of revision should be every fifteen years.

**Q. 58.** No. Yes.

**Q. 59.** Not necessary to go into it.

**Q. 60.** Yes.

**Q. 61.** No.

**Q. 62.** In the new scheme suggested, this class of tenants will be non-existent.

**Q. 63.** In the scheme suggested, the rent being uniformly fixed, this question does not arise.

**Q. 64 to 71.** Consideration of these questions becomes unnecessary, if the new state of things is brought about by the changes suggested above.

**Q. 72.** This varies according to the districts. In low lands of the jute producing districts, where no manuring is used, the average yield, per acre, is as follows:—

Jute—20 maunds; Paddy—20 maunds.

In high lands, the yield is higher, and manuring is used. In western Bengal, where a single crop of paddy is grown, the yield is 36 maunds. The yield of jute can be materially increased by the use

of properly grown seeds, which are now generally collected from rejected and weaker plants.

The cultivation of sugarcane has not yet become very extensive.

The cost of cultivation is the cost of the cultivating unit, as adumbrated in the scheme above.

**Q. 73.** Yes; for want of proper use of manuring and improved seeds, as also the want of fluvial deposits, due to the moribund condition of the inland water-courses of Bengal. The Government have been negligent in taking any steps to improve the situation.

**Q. 74.** Not to any material extent. The reason is the want of a properly trained and responsible agricultural adviser for each village and a proper and active lead from the higher authorities.

**Q. 77.** The general policy of the Government and the land system of Bengal together with the laws of inheritance are responsible for the present uneconomic condition of the raiyats. Modifications have been suggested above.

**Q. 78.** This depends upon the extent of his present holding and his liabilities. Under the circumstances, any average worked out would be misleading. In the absence of a proper inquiry and the required statistics, it would be difficult to fix any percentage. But from the general condition of the country, and the absence of any free State aid on account of drought and floods and other natural calamities during the last 10 years, the pecuniary condition of the cultivating raiyats has gone from bad to worse.

**Q. 79.** *Vide* answers to questions 53-55. It is not only feasible but also necessary to maintain an annual record, as suggested in the question, as also of the extent and result of flood, drought and other natural calamities.

**Q. 80.** The means suggested in (i), (ii), (iii) and organisation of co-operative marketing are fully approved. The means suggested in the first part of clause (iv) and in clause (v) will lead to harassing and unnecessary complications, not materially improving the prospects of the cultivator.

**Q. 81.** No. None.

**Q. 82.** No.

**Q. 83.** The establishment of a Co-operative Marketing Board for each village would solve all questions of village credit.

**Q. 84.** The estimate does not seem to be at all correct. A considerable percentage of the gross produce is no doubt paid in interest.

But the organisation of Co-operative Marketing Boards and stopping of all further loans, except from the Boards, will stop the "drain" if such payment of interest legitimately earned can be called a drain. The so-called "Home charges" are called a drain, but the analogy is misleading. It may be mentioned that in the scheme suggested in these answers, the holding being absolutely non-transferable, and non-mortgageable, private borrowing will automatically cease.

**Q. 85.** On the whole, for a variety of reasons, the co-operative credit societies have not succeeded in ameliorating the condition of the agriculturist.

**Q. 86.** Debt Settlement Boards have only added to the troubles and problems of the agricultural debtors. These have destroyed the whole village credit system and the procedure prescribed leads to corruption and harassment. If the administration had been left to the ordinary Civil Courts, there might have been some chance of the system working well. In the absence of any adequate Land Mortgage Banks and other Government credit societies, rural credit is heading to a complete collapse.

**Q. 87.** This should be left to the Village Co-operative Marketing Boards.

**Q. 88.** Land Mortgage Banks have not improved the position to any extent.

**Q. 89 and 90.** The machinery is costly, cumbrous and unnecessarily harassing both to the landlords and the tenants. Prompt easy and inexpensive realisation of rent can be made only on the general lines of Regulation VIII of 1819 under proper supervision and by the proper authorities.

**Q. 91.** The scheme above suggested in these answers, if adopted, will lead to a new order of things, which will necessitate a repeal of all the complicated Revenue Laws and Regulations now in force, giving place to a simple and complete code of revenue law.

**Q. 92.** It is difficult to point to any single enactment which is more harsh than the others and modification of one will necessarily react on the rest. It is also difficult to discriminate between laws which are operating harshly either on the landlords or on the tenants.

**Q. 93.** This piecemeal legislation has not ameliorated the economic condition of the tenant to any extent; on the other hand it has caused a loss to the landlords which can be gauged from Statement No. XIV, in the List of Statistical Abstracts supplied, for which no compensation whatever has been paid to them from the State as *quid pro quo*.

**Oral evidence of the representatives of the Bengal Mahajan Sabha, on  
17th March 1939.**

**PRESENT ON BEHALF OF THE SABHA.**

(1) Mr. Aswini Kumar Ghosh.

(2) Mr. Tarun Kumar Roy.

In reply to the Chairman, Mr. Ghosh said that the Mahajan Sabha consists mainly of traders and aratdars. They have also banking business but their banking is subsidiary to trade. In all, there are about 300 members from the whole of the province principally from eastern Bengal in the reverine districts. He said that his Association favours the abolition of the Permanent Settlement and the payment of compensation. The imposition of agricultural income-tax would not remove the evils of the zamindari system against which the present agitation is directed, nor would it help the zamindars to retain the good features of the present system. If the Sabha's scheme for economic planning of agriculture is accepted, the landlords would have to be removed. He explained the method of calculating compensation and took the case of a tenureholder who receives Rs. 1,000 as rent and pays Rs. 200 to his superior landlord. From the resultant profit of Rs. 800, there would deduction of 12½ per cent. on account of collection charges and cess at one pice per rupee. Compensation would be payable on the resultant figure. Similarly in the case of the landlord who receives Rs. 200 from the tenureholder—if he is paying Rs. 50 as revenue, that would be deducted *plus* collection costs and cess. The net profit of each person in the chain would be calculated in this manner. He held that unless 20 times the net profit was paid, compensation would not be adequate. "This is the general rate adopted in valuing property".

The Chairman enquired on behalf of the Maharajadhiraja Bahadur of Burdwan whether an additional 15 per cent. would be payable as compensation on the lines of the Land Acquisition Act. Mr. Ghosh reserved his reply for further consideration. He agreed that the interest payable on debenture bonds might be raised from 3 to 5 per cent. for the first five years on the ground that the purchase would be made at 20 times the profit. During the first five years, the bonds would not be issued, because it would take that period to make all the preliminary arrangements for acquiring the interests of the landlords and tenureholders. He thought that the amount required for compensation would be rather more than 100 crores. He proposed that the difference between 5 per cent. and 3 per cent. would go to a sinking fund for repayment. There would be a margin to Government for

their direct collection. This would be the difference between the assets of about 12 crores and the revenue of about 3 crores *less* collection costs at 12½ per cent.; and the sinking fund would continue until the debentures are paid off after 55 years.

Sir F. A. Sachse pointed out that in the reply to question 18, the cost of collection had been estimated at 5 per cent. Mr. Ghosh replied that this was the estimated cost after the land tenure system had been simplified according to his scheme, i.e., when the rent is realised by a method similar to the Patni Regulation. The Chairman pointed out that if 12½ per cent. were the cost of management the amount required would be about 1½ crores and the margin of profit would therefore be 7·5 crores. At 20 years' purchase, the total amount of compensation required would be 150 crores, including arrears and remissions.

In reply to a question by the Chairman on behalf of the Mahara-jadhiraja Bahadur of Burdwan, Mr. Ghosh thought that it would not be considered objectionable if he proposed compensation at high rates to the landlords, and the mahajans who have lent money to landlords are thereby enabled to recover their dues. He had no definite information regarding the present price of zamindaris. It would depend on the profit and other factors in each case. There are zamindaris which might even now fetch 15 to 20 times the net profit. The Sabha had only considered in its reply what would be fair compensation for forced acquisition. He agreed that there would be little margin of profit to Government in his scheme for State purchase until the debentures have been paid off after 55 years.

As regards the reply to question 53, he said he was in favour of a uniform rate of rent for the whole of the province: some rents will have to be increased but some will be decreased. He thought that the tenants generally might agree to this.

As regards the reply to question 83, he said that village marketing boards would go a long way to solve the present difficulties. He agreed that the scheme would lead to the complete disappearance of the village mahajans.

In reply to Dr. Mukherji, he said that the only way to effect economic holdings would be to change the laws of inheritance. If this were objected to by the country, his proposals would fall through. Cultivators are normally out of work for 6 months in the year. He suggested the development of cottage industries such as hand-weaving, and the introduction of cheap electric power. He thought that under the Sabha's scheme of agricultural planning, the cultivators would be much better off. "It has not been due to the Permanent Settlement

that handicrafts have largely disappeared from Bengal. In the case of Dacca muslin authorities like Dr. Vincent Smith have said that the manufacture of muslin had disappeared before the Permanent Settlement." He agreed that marketing facilities should be developed and was in favour of fixing a minimum price of paddy and jute. The Sabha has suggested a period of five years for the introduction of its scheme. It might actually take 10 years, but agricultural reform is the main objective and has become a matter of urgency.

The State would not be "dispossessing" the landlords and tenure-holders because they would be paid adequate compensation. If any intermediary is allowed between the State and the actual cultivator, the Sabha's scheme could not succeed. He agreed that State purchase would result in 14 million rent receivers being thrown out of employment.

The Permanent Settlement may have resulted in a low rate of rent, but his objection is that the rent paid by the cultivator is not available to the State. Dr. Mukherji said that the Sabha's proposal to fix rent at Rs. 6 an acre amounted somewhat to rack-renting. Mr. Ghosh replied that he would have no objection to reduce the rate to Rs. 4-8 an acre but there must be uniformity and the State must have more money. As regards the 14 million rent receivers, who would be thrown out of employment, the State from its increased resources would have to find employment for them in the army, business and other professions. He considered the barga system not objectionable. The Sabha's scheme for the reform of agriculture is dependent on the area which one tenant can cultivate. There is one class of bargadars who are virtually tenants and there is another class who are employed simply as labourers. In order to grant occupancy rights to bargadars, they have to be converted into tenants. Because they are cultivating on half share of the crop, they are not debarred from becoming tenants under certain conditions, but the Act of 1928 did not recognize them as such in all cases.

In reply to Mr. B. K. Roy Chowdhury, he said that the main business of the Sabha's members is aratdari but they have also to advance money to cultivators for the purchase of seeds. He agreed that in some cases, mahajans have also bought zamindari property. The reason for this was that they considered land the safest investment. In such cases they had no alternative but to buy the property and manage it themselves. He agreed that in banking, there is a principle that no money should be invested in land because it ceased to be a fluid investment. "In Bombay, investments in industry are higher than in Bengal". Mr. B. K. Roy Chowdhury differed and said that from Government statistics of 1934-35, it was clear that

investments in Joint Stock Companies were lower in Bombay than in Bengal. He agreed that during the Swadeshi movement, the country suffered industrial losses. Some zamindars suffered, but so did other classes. He could not say definitely if land has attracted more capital than any other form of investment, but he said that was his impression.

Mr. B. K. Roy Chowdhury suggested that the National Government may change in future and any debentures issued might become worthless. Mr. Ghosh replied this implies that public debt would be a provincial subject but under the Government of India Act this is not the case. He did not agree that the market would not accept debenture bonds as gilt edged securities.

He said that by actual cultivators, he includes persons who cultivate themselves, or by hired labour, or through bargadars.

In reply to Khan Bahadur A. Momin, he said that some members of the Sabha may have acquired zamindari property but most of them are not zamindars. "They lend mainly to agriculturists but some of them who have the ready capital may also lend to landlords. He could not say that the majority of estates are encumbered but agreed that some landlords are in debt. The interest is regularly realised from profitable zamindaris but in unprofitable estates realisation is difficult. Zamindari property is not profitable nowadays because the power of realising rent is insufficient. The cry nowadays is to stop the payment of rent to zamindars; unless this is checked, zamindaris cannot be a profitable business, and creditors would not be anxious to purchase the estates. The khas lands of zamindars and tenure-holders should be excluded from State purchase". Khan Bahadur A. Momin asked whether such lands should be assessed to revenue and, if so, at what rate. Mr. Ghose reserved his reply for further consideration.

In reply to Khan Bahadur M. Hosain, he said that the advantage derived from State purchase would be that the State would step into the shoes of the landlords and the raiyati assets would be available to the State. The Khan Bahadur queried the cost of compensation in the reply to question 14. He said that raiyati assets in the permanently settled area were about 11 crores, and if from that was deducted revenue at 2·15 crores and 50 lakhs for cess, the balance would be 8·3 crores. From this will have to be deducted the collection cost at 12½ per cent., i.e., 1·04 crores. There remains just over 7 crores, and at 20 times the net profit the total amount of compensation would be 140 crores. At 3 per cent., 4·2 crores would be required as interest.

As regards the proposal to fix rent at Rs. 2 per bigha, the Khan Bahadur pointed out that lands varied greatly in productivity.

Mr. Ghosh agreed and said that rents should be adjustable in accordance with the rise or fall in prices. Unless holdings could be made economic the Sabha's scheme would fall through. He agreed it might take years to effect agricultural improvement and consolidate holdings. He also agreed that in the scheme for State purchase little money would be available to the State for a good many years. He suggested however that it might be possible for Government, to raise a loan at less than 3 per cent. It might even be possible to raise it at 2 per cent. The Chairman observed that the British Government would be glad to know how any loan could be raised under 3½ per cent.

In reply to question 53, he said that the Sabha had made some investigations regarding economic conditions and the ability of cultivators to pay rent. He suggested that the Board of Economic Enquiry should investigate the budgets of cultivators to find out what fair rent can be paid by them. He maintained that a uniform rate of rent should be paid for all classes of land, because the Sabha's scheme would ensure uniformity of cultivating conditions. As regards the imposition of an agricultural income-tax he said that the Sabha has no data to indicate agricultural income in Bengal. Khan Bahadur M. Hossain said it was expected that such a tax might realise 50 lakhs. Mr. Ghosh thought that an agricultural income-tax would affect the tenants as well as the landlords, and said that there are many tenants who have an income of over Rs. 2,000. "There are numbers of such tenants in Rangpur district".

He maintained that transferability should be stopped, and the proposed economic area of 3 acres should not be subdivided. The cultivators would get credit from the proposed village marketing boards.

As regards the reply to question 50, he explained that the words "economically unsound" were used with reference to the change in the purchasing power of the rupee, so that the whole surplus revenue after State purchase would only come to the coffers of the State if there were a revaluation of rent according to present standards. Khan Bahadur M. Hosain queried the figures for outturn in the reply to question 72 and suggested that the figure of 36 maunds in Western Bengal is too high. Statistics give the outturn at about 18 maunds. Mr. Ghosh replied that the figure was based on the Sabha's estimate and on the experience gained from taking the average of several samples.

In reply to Sir F. A. Sachse, he replied that some members of the Sabha have bargadars but no figures are available showing the actual receipts of the share of the crop.

With regard to question 40, he explained that he intended to provide for agricultural credit through Co-operative Marketing Boards.

In reply to Khan Bahadur Hashem Ali Khan, he said that although zamindaris are not nowadays popular investments, there are some people who are still prepared to buy property if they can get them at a nominal price. The price has fallen since the depression and there are few buyers at adequate prices. He agreed that mahajans would be unwilling to purchase zamindari property nowadays without increased powers for realisation of rent. The Hon'ble the Chief Minister had undertaken in the Upper House, when the amending Bill of 1938 was introduced, that the Government would provide for the punctual realisation of rents. If that assurance is not kept, the landlords' position will become very difficult. If agricultural income-tax is imposed in addition it would amount to an easy method of extinguishing the landlords. Mahajans have lent money to zamindars but not with the object of obtaining their property. He mentioned the case of an estate which had been purchased by a mahajan in a sale at a very inadequate price, and said that if compensation were to be given on the basis of the price paid, it would be most unjust. "No calculation can be based on compulsory sales such as revenue sales". There might have been one or two cases in which members of the Sabha have received offers from zamindars for the sale of their property. The price offered may have been 12 to 15 times the net profit, but prices in abnormal times cannot be taken as the basis for compensation. The average sale price of 50 years would have to be taken. During the boom, the price of Calcutta property was high: the prices are now less but are still fairly high. It depends on the locality. It is true that people would only buy property at the market price, but such voluntary sales are on an entirely different footing from forced acquisition of property by the State. The Government of India Act makes it imperative that proper principles should be laid down for acquisition and compensation. He agreed that Government ought to give a fair price for an estate sold in revenue sale but the sale law is otherwise, and has always been considered harsh.

He agreed that there is a general demand for reduction of rent in the province but maintained that when the burden of Government is on the representatives of the tenants, the tenants may have to agree to higher rates. He did not agree that landlords and tenureholders should agree to accept a low rate of compensation in view of prevailing prices: they will be making sufficient sacrifice by losing their lands. "It might be the case that some landlords have got into debt on account of their own extravagance but this is not a factor which affects the rate of compensation."

In reply to Sir F. A. Sachse, he said that as a member of the Board of Economic Enquiry he would suggest an enquiry into the outturn of crops and the present condition of rural credit resulting from the Bengal Agricultural Debtors Act. He said that he had read the Board of Economic Enquiry Committee's report of 1934. In addition to the use of Settlement records he would suggest an enquiry into the result of Debt Settlement Board's work. He thought that figures could be obtained from these Boards showing the incomes of the agricultural families but suggested that enquiries should also be made to show what credit is now being obtained. His opinion was that credit had almost completely dried up and that tenants could not even get a loan of Rs. 2 for their doctor's bills. The Hon'ble Finance Minister recently admitted in his budget speech in the Lower House that the Bengal Agricultural Debtors Act has largely removed agricultural credit and the Hon'ble Ministers of Rural Indebtedness and of Justice have said that the Act is partly responsible.

He agreed it is partly true that mahajans cannot lend money because they cannot get back their capital. "Mahajans do not lend money with the object of getting possession of land: they want a return on their money. In the case of uneconomic holdings they run the risk of losing their money, but if the rate of interest offered by the tenant is tempting, mahajans would take the risk. Generally mahajans do not make careful enquiries into the financial condition of the tenants to whom they lend money. He agreed however that the mahajans have a better knowledge of the villagers' conditions than a co-operative bank could have. A great many mahajans, including some Muhammedans, have acquired land and have become agriculturists. A tenant may withhold his landlord's rent but, if his credit in the village is good the mahajans would not hesitate to lend money to him. He undertook to make enquiries and inform the Commission in due course whether it is possible to get the views of some representative village moneylenders.

He suggested that the possibilities of the indigenous banking system should be explored before other systems are developed by Government. He agreed that in Rangpur the outturn of crops was higher than in West Bengal: certainly the double cropped area in Rangpur was greater than that of West Bengal. The figure of 36 maunds for single cropped land in western Bengal might be incorrect and needed further investigation. In Chittagong and Bakarganj the outturn of aman paddy would be more than in western Bengal, as the land is more fertile. The cost of cultivation in Bakarganj would also be less than in western Bengal.

He said that there is a distinct class of agricultural labourers in districts like Midnapore, Bankura and Birbhum but not in Rangpur.

It would not however be possible to draw any social distinction between a raiyat, a bargadar and a labourer. A mahajan would do business with any one of them who had sufficient credit.

As regards the reply to question 25, he explained that by the word "tenant" he excludes the class of bargadars who can be ejected at will. His distinction amounts to an interpretation of the law as amended by the Tenancy Act of 1928.

He agreed that at present mahajans are not lending money on the basis of usufructuary mortgages because of the amending Tenancy Act of 1938. It cannot yet be said whether the credit of tenants will improve and mahajans will agree to take usufructuary mortgages. He agreed mahajans may consider that by allowing a mortgagee to continue cultivation and by receiving half of the crops for 15 years they are not getting sufficient to cover the amount advanced.

In reply to the Secretary, he agreed that the outcry for reduction of rent might subject the tenants' representatives to political pressure but thought that when they have the responsibility of carrying on the Government, the party's position would be the deciding factor. If they could not balance the budget, they would have to revise their election pledges.

As regards the scheme of State purchase, he said that when compensation was proposed for raiyats, he meant non-cultivating raiyats who are mere rent receivers. He could not say what would be roughly the proportion of such tenancies, but undertook to make enquiries and supply the Commission with figures if possible. The Secretary said that in Madras where legislation has limited mahajans' interest to 6½ per cent. the Commission had been told that mahajans are likely to continue lending at that rate. Mr. Ghosh replied that in Bengal it would depend on whether more profitable investments could be found. If mahajans had capital lying idle they might invest it in non-agricultural concerns if they saw a possibility of higher profit.

### Reply by the Bengal Provincial Co-operative Bank.

**Q. 81.** Pressure of population has led to an indefinite fragmentation and creation of uneconomic holdings.

**Q. 82.** Government-aided factories started on a co-operative basis—which will include in the management specially trained officers conversant with the technique of the particular business and with sufficient initial capital sufficient to cover the entire block account—may give the local people fair amount of work and relieve in part the pressure on the land.

**Q. 83.** Agricultural credit consists of three main divisions, viz.:—

- (1) Normal credit for the seasonal requirement.
- (2) Intermediate credit for purchase of agricultural implements and cattle (for 3 years on the average).
- (3) Long term credit for freeing the agriculturists from debts.

*As regards (1)*—The best way to cope with the problem is to introduce a network of primary co-operative societies throughout the whole of Bengal. There ought to be at least one society in each of the 86,000 villages. The advance to a member should be commensurate with the area under his cultivation and should in no circumstances exceed his normal requirement for raising the crop. Some machinery must be available to the society for collecting the advances expeditiously and there should be penal provisions for wilful non-payment of these advances.

*As to (2)*—For intermediate requirement the co-operative societies discharged this function in the past but on account of wide failure in repayment of their dues this has not been successful. A different kind of capital is needed. If such capital is forthcoming and these two different kinds of advances are kept distinct the co-operative societies may do this kind of business to a limited extent consistent with the repaying capacity of the borrowers.

*As to (3)*—For long term requirements the best agency is the land mortgage banks established on a co-operative basis—which can be utilised to free the cultivator of debts. These banks from their very nature can cater only to the requirements of a solvent cultivator with sufficient repaying capacity.

**Q. 85.** The co-operative societies have succeeded in reducing the average rate of interest throughout the country. The rate of interest charged by the mahajans was on an average varied from 37½ per cent.

to 75 per cent. The co-operative societies have reduced this to 9 per cent. to 15 per cent. It is wrong to say that only the members of the societies have benefited from this. The lowering of the average rate has helped those agriculturists who are not members but who have reaped enormous advantages on account of the lowering of the average rate. The benefits of the co-operative movement should not be gauged by looking at the economic condition of the members only but it should also be considered what it has done for the general mass of the agriculturists in the country. The rate of interest may not be excessive; still attempts should be made to lower it further as the repaying capacity of the cultivators has shrunk considerably on account of the economic depression.

As regards the benefits to the members of the village societies: they have undoubtedly been helped to a great extent. But for these societies they would have been turned into landless labourers. The main reason why they have not been functioning as they ought to is that the unlimited liability system in vogue amongst them deters solvent cultivators with sufficient repaying capacity from becoming members of these societies as they feared to lose their own properties on account of the debts of the weaker members. Consequently the association of several persons, each of whose position is economically unsound, has not been and cannot be able to show such good results as are possible from these organisations. Proposals are before the Government for creation of limited liability societies amongst the agriculturists which will meet the need of the solvent agriculturists and which are likely to be successful. About 5 per cent. agriculturists are members of the village societies.

The wiping out of debts of the members have been only undertaken very recently through the medium of the land mortgage banks. From their very nature they can only help the solvent agriculturists. The progress of the work is necessarily very slow. At present only about Rs. 4 lakhs have been advanced through the five land mortgage banks sanctioned by the Government. The proportion is about 1 per cent. of the total number of members of the co-operative societies.

**Q. 86.** Debt Settlement Boards are scaling down certain debts—the progress has been very slow and in the meanwhile there is no machinery for supplying the cultivators with necessary credit.

**Q. 87.** The introduction of agricultural banks in lieu of the co-operative institutions is open to serious objections on the following amongst other grounds:—

The present system of advancing small agricultural loans not exceeding Rs. 10 as an emergency measure should be substituted by

a system in which Government is prepared to advance the entire amount necessary to meet the normal credit requirement. Recovery of this will necessitate the introduction of stringent measures not likely to be acceptable to a popular Government. The management will be most costly and will lead to heavier overhead charges which will in ultimate analysis fall on the borrower cultivator. Besides, acceptance of the role of banker by the Government may lead to serious embarrassment as it might be influenced by political parties. The position of the Government revenue charges and rent charges of the landlords are likely to be endangered if the Government comes out as a money-lender. It will also put a discount on private enterprise and impede the normal outlet of national finance.

**Q. 88.** The land mortgage Banks have functioned only to a very limited extent on account of the nature of the business which necessitates close scrutiny of the title of the applicants and their repaying capacity. It provides long term credit only to the solvent cultivators. Government has sanctioned only five land mortgage banks which are operating in only 5 districts and that only in certain restricted areas. The authorised Government guarantee is only 12½ lakhs. It is necessary that a network of co-operative land mortgage banks should be established throughout Bengal and the Government should be prepared to guarantee the principal and interest of the debentures to be floated at present up to a minimum of Rs. 200 lakhs.

For the improvement of the co-operative land mortgage banks the following steps amongst others may be taken:—

(i) Establishment of a Central Co-operative Land Mortgage Bank. The present system by which it is a department of the Bengal Provincial Co-operative Bank without any floating charge on its general assets will be fraught with interminable legal difficulties in the way of floating the debentures.

(ii) Government must be prepared to guarantee both principal and interest of the debentures to an extent of at least 2 crores for the present. The total long term capital needed for Bengal is at least Rs. 50 crores.

(iii) Government must be prepared to find the necessary staff and afford the other facilities granted to the Co-operative Land Mortgage Banks as in Madras.

(iv) Facilities are to be given to the Land Mortgage Banks to scale down debts and make these charges not liable to be cancelled on the event of a rent sale on account of a default by a superior landlord.

**Oral evidence of the Bengal Provincial Co-operative Bank on 20th March  
1939.**

**PRESENT ON BEHALF OF THE BANK:**

(1) Mr. S. K. Chatterjee.

(2) Rai Bahadur Nagendra Nath Mookerjee, o.b.e.

In reply to the Chairman, Mr. Chatterjee said that he has been a Director of the Provincial Bank for the last twelve years and is Bengal's representative in the All-India Provincial Banks' Association and All-India Institutes' Association of which he is a member of the Standing Committee.

The Provincial Bank finances both land mortgage banks and ordinary village societies through central banks. He said he had been to Madras to study the problem of land mortgage banks and he has submitted a report of which he made over a copy.

The Provincial Bank's funds are derived from the deposits which are generally made for two or three years. There is also a reserve fund amounting now to Rs. 29 lakhs which has been converted into Government securities. The total holding of Government securities is Rs. 89 lakhs approximately. Deposits are kept in the Imperial Bank and advances are made from them to the central banks and land mortgage banks. No funds are derived from Government and deposits are not guaranteed by Government. The bank has sufficient funds, but the demand for loans from the bank has practically disappeared with the exception of short-term crop-loans and advances to land mortgage banks. He agreed that one mistake has been that in the past no distinction has been made between long and short-term loans. Another reason for the present condition is that Debt Settlement Boards have resulted in a shrinkage of credit.

It is true that many people cannot repay their loans, but many of those who can repay will not do so. The economic depression and the fall in prices are also responsible for present conditions. These factors have produced the present deadlock.

He thought that the co-operative system is capable of sufficient extension to meet the demands of practically all agriculturists. There should be at least one society in each village throughout Bengal. Rules have now been framed for advances of crop loans, i.e., short-term loans to be repaid from the next crop. The repayment of such loans has been generally regular except when there has been a failure of crops. They are usually limited to 10 or 15 rupees and he thought that people would generally repay such loans when they were able to do so.

Applications for loans from land mortgage banks have to be carefully scrutinized by the Provincial Bank. Debts are scaled down and loans are granted in cases where the applicants have sufficient security. The number of such cases is very small, it is true, but an investigation in Madras showed that out of an actual advance of Rs. 5 lakhs to ordinary village society members only Rs. 5,000 could only be advanced to members who satisfied the standard of land mortgage banks. The same would be the case in Bengal. For those cultivators who have not sufficient security to take loans from land mortgage banks, he recommended the scaling down of debts on a sufficient extent.

At present in the land mortgage banks there are no compulsory methods of scaling down debts, but each case is investigated on its own merits. He considered that the present legislation is sufficient, but thought that further legislation might be necessary in the future.

He said he was opposed to the grant of direct loans by Government. The problem of debts should be dealt with on co-operative lines. Nor was he in favour of establishing agricultural banks. Recovery of loans would only be possible if stringent measures were adopted. These would be unpopular and Government might have to write off part of such loans. It would operate as a check on the normal outlet of national finance if Government acts as a moneylender to the people. Management by Government would also be more costly.

In reply to questions put by the Chairman on behalf of the Malirajadhiraja Bahadur of Burdwan, he said that he was not in favour of Government financing such agricultural banks. He estimated that the amount required for crop loans would be Rs. 2,000 to Rs. 2,500 for each village society if it includes the major part of the cultivators in a village. He estimated that about 75 per cent. of the villagers might require loans.

He thought it would be necessary to develop industry in order to employ the surplus population, but he could give no idea of the capital required for starting a small industry.

In reply to Khan Bahadur Muazzamuddin Hosain, he said that the Banking Enquiry Committee's report of 1930 might have said that the rate of interest charged by mahajans at that time was still 37½ per cent., but he maintained that the co-operative movement has effected a great reduction in the general rate of interest. Although the societies comprise only 5 per cent. of the agricultural population, the movement had undoubtedly lowered the mahajans' rate of interest. The question does not arise now, because no credit is at present available. It may be true that the rate of interest has also decreased owing to the economic depression. He did not entirely agree that co-operative societies have got into difficulties because their members

could borrow from other sources as well as from the societies. The principal reason is the economic depression and the shrinkage of credit or repaying capacity. Even ten years ago some societies failed because members would not repay their dues although they were in a position to do so. The Department is now recommending loans only to those who have the capacity to repay and is also granting short-term loans.

Agricultural debt amounts to about 150 crores. In Madras Rs. 1.25 crores has been advanced to land mortgage banks. In Bengal Rs. 4 lakhs has been advanced to 5 mortgage banks. There should be many more mortgage banks in Bengal at the minimum one in each subdivision. The present number is admittedly small, but it is an experimental measure, and it is to be remembered that the Madras investigation shows that only loans to the extent of Rs. 5,000 out of a loan of Rs. 5 lakhs could satisfy the test of the necessary security for loans from land mortgage banks. The procedure is necessarily slow. Loans are granted up to 50 per cent. of the value of the property. The total number of people who can be helped by these banks may be only 10 to 15 per cent., but a margin of safety must be allowed and it cannot be helped if the majority of agriculturists cannot be given loans.

He did not agree that the responsibility for granting loans should be divided between the Government and the Provincial Bank, viz., the former should supply short-term credit and the latter long-term loans. Government can only approach cultivators indirectly whereas co-operative societies are in close touch with them. Government has not got the same organisation and machinery. It may be true that 99 per cent. of agricultural loans are recovered by Government. He could not say whether this is managed without difficulty and without the issue of certificates.

He would have no objection to a scheme whereby an Inspector is appointed to supervise co-operative societies and land mortgage banks in each thana, and the Collector advances short-term loans on the security of crop. The societies must however be organised on a co-operative basis.

He agreed that a continued bond system will be necessary in the case of an agriculturist debtor who requires money again for a particular purpose, after his entire property has been mortgaged to a land mortgage bank; all his agricultural requirements will have to be met somehow.

For persons who cannot be helped through land mortgage banks he recommended that credit societies for small loans be opened in every village. It would however be difficult to help those cultivators who

have not got adequate security to wipe off their loans. Their debts would have to be scaled down and thereafter if the security was found to be sufficient they could be given loans, otherwise not.

**Khan Bahadur M. Hossain** suggested that tenants who have not got sufficient security might make over their lands to mahajans in usufructuary mortgage and continue to cultivate as a bargadar for a period of years. Mr. Chatterjee said that the period could not be more than 15 years under the Tenancy Act but that if the mahajans agreed to this arrangement he would have no objection. He was however opposed in theory to any disorganisation of credit through legislation. Sir F. A. Sachse pointed out that Debt Settlement Boards have already got the powers to scale down loans. Mr. Chatterjee said that he was not in favour of trying to compel mahajans to take usufructuary mortgages.

In reply to Khan Bahadur A. Momin, he said that he would be in favour of a scheme whereby Government would hand over loans to village societies, who would lend the money to their members and recover the sums after the crops are harvested. He thought this might be more popular than the present system of joint security bonds under which each member is personally liable to an unlimited extent for the debt of others. In the amended Act before the Legislature there is provision for recovering loans by distraining the crops. He was in favour of this provision; though distress might make the co-operative system a bit unpopular with those who could not pay still he thought the threat of distress would be a useful deterrent. In order to dispose of distrained crops there would have to be a marketing society attached to each group of co-operative societies, to be organised by the Department or Provincial Bank.

Loans issued by primary societies must be confined to short-term loans; there would then be no difficulty in getting money for agricultural relief. Land mortgage banks are functioning properly but their progress is slow. Their work and that of the Debt Settlement Boards overlap in some cases. The land mortgage bank does the work of a debt settlement board as it first of all scales down the debts of applicants; but on a voluntary basis. The ideal procedure would be to have a land mortgage bank which has also the powers of the debt settlement boards. It is as yet premature to judge the results of the Debt Settlement Boards, but he thought their utility as they are functioning now, is doubtful unless some machinery is available for reviving credit and unless their disposal of cases is properly expedited.

In reply to Dr. R. K. Mukherjee, he said that agricultural loans are necessary for cultivation. Repayment of such loans would certainly have to be made from the crop. If the gross produce is taken

at Rs. 40 per acre and the advance for the cultivation of the same is Rs. 10, the cultivator might have to repay principal of Rs. 10 plus interest about annas 10 at the rate of 6 per cent. or 7 per cent. for 9 months, i.e., he would have about Rs. 29 profit per acre. He agreed that the position could be improved if holdings could be made economic. From a purely economic point of view it may be correct to say that credit cannot exist if holdings are uneconomic. Whether it is possible to make holdings economic, is another matter, but it is better for tenants of uneconomic holdings to have some income as pointed out above rather than nothing at all. Cessation of credit means the total destruction of income.

There could be no guarantee that agricultural loans might be diverted to social use, but the co-operative system of joint liability with close supervision provides some security against this. Rai Bahadur N. N. Mukherjee thought that it would be possible to guarantee that loans are used for the purpose for which they are made. Formerly the Department used to make over money to the Secretaries of societies and it did not always reach the members. Now the Department's supervisors make payments direct. He did not think it likely that debtors would repay their loans to societies by borrowing from mahajans, because the rate of interest charged by mahajans would be higher and no mahajan would lend money to a man who has already borrowed from a society. He agreed there might be difficulties if a dishonest debtor were to dispose of his crop before distress could be made. The system of short-term loans is working satisfactorily and most of the villagers where the system is working are coming forward for loans. Some investigation is made even in the case of short-term loans. The enquiries are carried out by inspectors and special officers.

In reply to the Secretary, Mr. Chatterjee said that loans would not normally be given to bargadars who had no raiyati or under-raiyati lands.

The deposits in the Provincial Bank are not guaranteed by Government. The Bank has got about Rs. 89 lakhs in Government securities and has approached Government to guarantee debentures which it is proposed to float for the Central Banks that are unable to pay off their liabilities.

The figure of 86,000 village in the reply to question 83 was taken from some Government report and from the Registrar of co-operative societies.

In reply to Sir F. A. Sachse he said that the applications for loans from the land mortgage banks are scrutinised by the Provincial Bank. It is true that the system of centralisation results in some delay. In

Madras the same system exists. Sometimes the recommendations of the land mortgage banks may have to be set aside because the title is not clear or they have no sufficient repaying capacity. The Sub-Deputy Collectors or Managers who conduct enquiries in connection with the applications to land mortgage banks are not always sufficiently conversant with the law on the point. It has also to be remembered that the Provincial Bank is ultimately responsible for granting the loans. He himself is a member of the Land Mortgage Committee and scrutinises every one of these applications.

As regards the reply to question 83 (2) he said that by "a different kind of capital" he meant money for a longer period, i.e., that the Provincial Banks must lend money to the central banks for a longer period. As the period of deposit must be commensurate with the period of the normal return of the loans, the period of deposits must necessarily be longer.

In reply to the Chairman he said that different rates of interest are payable on different kinds of deposits.

As regards the reply to question 65 that proposals are before Government to create limited liability societies, he said that according to this proposal each member will be liable for the loan of the society up to the extent of his paid up or uncalled spare capital. The system of joint liability in a case where a member stands surety will be there as in the case of urban banks. If there is limited liability, substantial agriculturists who have sufficient security are likely to join the societies and this will strengthen the movement by bringing in a class of solvent agriculturists who now keep away from the movement under the apprehension that they will lose what they have got through the default of less solvent members. Sir F. A. Sachse suggested that, if, as has been said, the cultivators normally require a loan for cultivation every year, the fact that they have obtained no credit for several years might lead to the conclusion that land has gone out of cultivation. Mr. Chatterjee replied that some of them are still getting credit from the co-operative societies and that the remaining 95 per cent. must have been managing somehow possibly by alienating a portion of their lands. He thought that one reason for the increased sale of part holdings is that cultivators have to pay the expenses of cultivation. In the Bill before the Legislature, it is proposed that distress of crops should be carried out through the Registrar and not through the courts. He agreed that it would be difficult in practice for Civil Courts to arrange for the distress of crops. He thought that the power of distress through the Registrar would act as a deterrent and will reduce substantially the number of wilful defaults.

Rai Bahadur N. N. Mukherjee said that the Provincial Bank's securities of Rs. 90 lakhs are now earning rather less than they are

paying. The central banks have not been able to make any substantial repayments during the last five years and the deposits in the Provincial Bank have fallen below the withdrawals. He doubted whether sufficient deposits could be obtained to cover the difference without raising the present interest of 3½ per cent. on deposits. The Provincial Bank lends to central banks at 5 per cent. and its rate of interest of 3½ per cent. is for 2 or 3 years deposits. He agreed that to some extent the increased withdrawals may be due to lack of public confidence. The excess of withdrawals over deposits is however small.

In reply to the Chairman, he said that the Provincial Bank is not living entirely on its reserves but is also receiving deposits. He himself had objected to the large amount of reserve but the Registrars had insisted on an adequate reserve to meet times of difficulty. There was a surplus of Rs. 40 lakhs which has now come down to Rs. 7 to Rs. 8 lakhs and there is also a Government guarantee on Rs. 39 lakhs which the Bank has not had to draw upon.

As regards the reply to question 88 (1) he explained that the Provincial Bank should have capital and interest guaranteed by Government and should be independent of the land mortgage banks. There should be separate banks above the land mortgage banks on the lines of the Provincial Bank.

In reply to Khan Bahadur M. A. Momin, he said that it is too early to say whether Land Mortgage Banks are safer investments than co-operative societies with short-term loans. Land is not the asset it used to be; nowadays it is rather a burden. He himself possesses several tenancies but finds it difficult to realise rents from his tenants. He doubts if purchasers could be found for zamindaris at 5 times the net profit.

Continuing to Sir F. A. Sachse, he said that mahajans should not be compelled to take usufructuary mortgages. It may have been unwise on their part to advance more money than they could recover from half share of the crop over 15 years, but they know their own interests best. He was of opinion that the present difficulties are entirely economic. In order to meet the present situation he suggested distribution of improved seed and manure through co-operative stores under the supervision of agricultural officers. Marketing facilities should also be developed and in order that a scheme for planned agriculture may be introduced, there should be an extensive soil survey. There should then be a Growers' Association with the centre at Calcutta and branches in the mufassal. The Central Association would keep in touch with the world demand for various crops. Subsidiary occupations, such as cottage industries will also have to be developed in order to keep the cultivators employed throughout the year.

## Reply by the Bengal Provincial Hindu Sabha.

**Q. 1.** This description is not exhaustive of the duties and obligations of the zamindars. The zamindars had to keep up thanas or police, to give information of the bad characters in their zamindari, to maintain peace, and to supply stores to the army and Government officers in addition to other traditional or customary duties. The zamindars were said to have been tax gatherers and servants of the State, paying into the Exchequer amounts fluctuating, arbitrary and unequal. The policy of Lord Cornwallis in fixing for ever the land tax payable to Government was a matter of necessity, and the Despatch of the Court of Directors, dated the 29th September 1792, was in accordance with the spirit of the age and the views of the Parliament as contained in Pitt's India Act.

The necessities of paying the great military and civil establishments of the Company and the dividends to the proprietors required the punctual realisation of the land tax, and the amount needed was very large. To avoid fluctuation and ensure punctual realisation, some means was absolutely necessary to be adopted, and the Government adopted not only the best, but the event shows, the most successful one. The tax was at that time so heavy and the rules adopted for realising it so paralysing, that most of the ancient raiyats and zamindars of Bengal succumbed in the course of a few years of the Permanent Settlement being thrust upon them.

Permanent Settlement did not take away any existing right from the tenants.

**Q. 2.** Yes. Of course, he could not prevent tenancies descending to heirs of the khudkasht tenants.

Permanent Settlement merely recognised the rights of the zamindars to restrict usage of lands.

**Q. 3.** The landlords have done much for the economic development of the country in earlier times. They have excavated tanks and ponds, dug wells, constructed roads, established schools and colleges, hospitals and similar other charitable institutions. They brought waste and jungly lands under cultivation.

They have not failed to perform their functions. In recent years, owing to the countrywide economic depression the zamindars have been financially handicapped in continuing to do these things further.

**Q. 4.** It is not correct. The Permanent Settlement merely recognised the zamindars as actual proprietors of the soil which they were from before the introduction of the Permanent Settlement.

According to the Hindu idea the khudkasht raiyat was the proprietor of the soil, the King being entitled merely to one-sixth portion of the

produce which was described as the King's salary, but according to the Muhammadan idea it was the King who was the proprietor of the soil and not the khudkasht raiyat.

The State assumed to itself and made over to the zamindars its own supposed proprietary right to the soil, as if the cultivator had no right to hold land against the will of the Government and its grantees. To repeat the words of the preamble to Regulation II of 1793, "the property in the soil was formerly declared to be vested in the land-holders," but adequate provision was not then made for the protection of the class of persons who were the real proprietors of the soil and who deserved protection of the Government.

**Q. 5.** The annulment will be, virtually, breach of the solemn pledge given by the East India Company (*vide Article III, Section 4 of Regulation I of 1793*). The political and social position of the country existing at the time of the Settlement justified such a measure and without the help of such zamindars the administration of the country was almost an absurdity on the part of the East India Company who knew practically nothing of the habits, mode of living, religion and tradition of the people of the country. Direct contact with the masses was then regarded by the authorities as baneful to them, therefore they took to the measure with an eye to the then circumstances of the country which was, to some extent, chaotic, anomalous and troubrous. The main object was the punctual realisation of a fixed revenue peacefully.

No harm, if the tenants were no parties to such pledge. We do not think, Permanent Settlement permanently crippled the financial resources of the country.

The exploitation of the foreign Government under a subtle exchange policy is responsible for economic distress of the country. The market of the produce of the lands is controlled practically by Government policy which is more or less alive to the interest of the British traders which retards the economic development.

**Q. 6.** This expectation has been fulfilled as far as practicable.

Large increase in area brought under cultivation since the Permanent Settlement is mainly due to the initiative and the pecuniary and other assistance of the zamindars and partly due to the increase in population.

**Q. 7.** By the combination of the three elements.

**Q. 8.** This expectation has been fulfilled. The zamindars are not at all strict in collecting their rents. They generally do not bring any suit for recovery of rents before the expiry of 4 years. It often happens that no interest is taken if payment is made out of Court.

The Government are not generous to the zamindars. Compared with the hardship of Revenue Sale Law, the zamindars are kind to their tenants.

**Q. 9.** No other duty was imposed upon the zamindars manifestly. From the beginning of the Permanent Settlement and up to the middle of nineteenth century, before the growth of towns and cities, the zamindars lived peacefully and in close touch with their tenants but with the growth of cities and towns they generally left the villages and took to town-life and began to lose touch with their tenants. But this is not universal. There are still some zamindars who like village-life and are in close touch with their tenants sharing their joys and sorrows.

The western civilisation has eaten into the the vitals of the ideal of simplicity in living and is mainly responsible for the present absenteeism of the zamindars. The Indian ideal of simple living and high thinking is gradually losing ground owing to the glamorous and ephemeral lure of pleasures of town-life grown under the influence of the western nations.

**Q. 10.** The Permanent Settlement was in the interest of the country economically and for the greatest good of the greatest number through middlemen.

Certainly, it has led to a revenue system which was for the benefit of the province. Sir John Lawrence in his Minutes of July 5, 1852, says "we cannot of course afford to give up generally large portion of revenue in India, but it is impossible to doubt there are great political advantages in such a policy. A perpetual settlement founded on a light and equitable assessment of the land would, it must be obvious, be very popular and most advantageous for the great mass of the agriculturists." Not content with this, Sir Charles Wood even accepted the general principle that a Permanent Settlement was advisable throughout India (*vide* Imperial Gazetteer, Vol. IV, page 231).

Permanent Settlement has led to a revenue system which is to the benefit of the province.

Regarding latter part of the question we say "Not exactly."

**Q. 11.** (i) It seems to be wrong; the apparent fact is that most of the zamindars cannot realise their rents nowadays, for the capacity of the tenants for payment is decreasing from day to day owing to the economic distress in the country. The price of the produce of the lands is getting lower and lower. Jute, the main produce which is calculated to bring money for the cultivators, is now almost a condemned commodity the market of which is controlled by the foreign millowners.

(ii) Subinfeudation is, in the true sense of the term, absent in this country, but intermediate positions have been created as a matter of necessity and so to the benefit of the country at large.

(iii) To some extent in accordance with the provisions of the Bengal Tenancy Act, but the system is not harassing and oppressive in general.

(iv) No. Nowadays no body cares for the zamindars who are regarded, more or less, as so many commission agents of the Government without any power or authority.

**Q. 12.** No. If the Permanent Settlement is abolished, the Government will have to come in direct touch with the masses. This will mean loss of revenue and apprehension of occasional revolts of the masses in times of distress.

**Q. 13.** None. There is no loss to the State of 12 crores unless the State is to appropriate every pice of the rent paid by actual cultivator and also the income of the khas lands.

**Q. 14.** This question does not arise. But we say that if zamindari to be abolished, compensation at the rate of 20 times of the net munaf of the zamindari should be given and that in cash.

**Q. 15.** This question does not arise.

**Q. 16.** It would revolutionise the society. Education and culture would be gone with the extinction of the middle class which is the inevitable result of such abolition. There would be only drawers of water and hewers of wood on one side, and the Government on the other. In ancient times in India there was division of labour, and educated class was maintained by the State.

In the absence of any such State-policy for the maintenance of the educated class and with the abolition of the zamindari system intelligentsia would be wanting and cultural development of the country would be at stake.

**Q. 17.** No.

**Q. 18.** We have no knowledge.

**Q. 19.** We do not think so. Khas mahal raiyats do not enjoy any advantage over tenants under the proprietors. Rather, the certificate procedure of the Khasmahal Department is regarded by the tenants as hard and harassing.

**Q. 20.** Yes, as a matter of necessity and of course. In our opinion the creation of permanent tenures has not affected the economic position of the raiyats. It might have affected their social position when one of their class became their overlord.

**Q. 21.** No better effect. If tenures are purchased by the State, the tenureholders will disappear and consequently the middle class will be extinct. Extinction of middle class means extinction of culture, education and advancement of the country.

**Q. 22.** The homesteads and khas lands should be regarded as permanent and very fair and equitable rent should be assessed upon them.

The criterion for the ascertainment would be prevailing rate of the locality for lands without improvement.

**Q. 23.** It is no creation of British legislation. According to the Hindu law the actual proprietor of the soil is the khudkasht raiyat and not the zamindar or the middleman, the King being entitled only to one-sixth of the produce which has been called as salary of the King. In Muhammadan times the zamindar was the proprietor of the soil. Right of the khudkasht raiyat to the soil was not taken away by the Permanent Settlement.

**Q. 24.** According to Hindu law this was the position but not so according to the Muhammadan idea. According to Hindu law the King was entitled to only one-sixth portion of the produce which was called his salary in lieu whereof he gave protection to his subjects. Proprietor in this sense that so long as they paid the tax they could not be ejected and had the right of transfer as the zamindars had.

**Q. 25.** In favour of extending the principle to all grades of statutory raiyats but not of confining it to the tenant actually cultivating the soil (tenant meaning statutory raiyats who pay rents and not bargadars or labourers, etc.)

**Q. 26.** Raiyats who have sublet their entire holdings should lose occupancy right. Those who have partly sublet may be allowed to retain occupancy rights if from disabilities they have done so.

**Q. 27.** The question of non-agriculturists was not before the framers of the Permanent Settlement Regulation. The main object was to have revenue through extension of cultivation. In all sense of justice and equity non-agriculturists who have had their homesteads and factories on lands for more than 12 years should have right of occupancy.

**Q. 28.** Yes, statutory rights should be extended, we find no justification in levying any additional tax for this.

**Q. 29.** Yes, the reason is increase of population.

**Q. 30.** (i) Not at all correct.

(ii) This is partially the cause.

(iii) Voluntary and involuntary sales have been frequent owing to the raiyat being unable to pay rents and other debts due to uneconomic prices of crops.

**Q. 31.** The area varies in different localities. On an average 10 bighas of land. Sometimes he holds raiyati lands on payment of rent.

**Q. 32.** Right of occupancy should not be extended to bargadars. They are in the category of labourers. The crops belong to the owners of the land. Their interest may be protected by legislation on terms equitable and reasonable such as if they improve the land at their costs such cost should be paid to them. Panchayet system in every village to protect the interest of the bargadars may be introduced.

**Q. 33.** It is economically sound. The latter part of the question does not arise.

**Q. 34.** The effect would be that the bargadars would be rendered into so many labourers at will. The owners of the lands will try to keep almost all their lands in their khas and the bargadars will be thrown out of employment.

**Q. 35.** Half of the produce. Not necessary.

**Q. 36.** 4 to 6 annas per diem. The position of labourers are worse than bargadars.

**Q. 37.** We do not think that the unrestricted right of transfer has led to the passing of considerable areas of raiyati lands to non-agriculturists.

Not necessarily, any such tendency is yet absent. This tendency is possible owing to the Bengal Tenancy Act amendment in 1938.

It is not practicable to restrict by law the transfer of raiyati lands to agriculturists.

**Q. 38.** At least 3 bighas. The answer depends upon what is meant by an economic holding.

**Q. 39.** Yes.

**Q. 40.** Consolidation of holdings is desirable, and practicable in this way that right of pre-emption and restriction to subdivision should be made by law. Laws of inheritance both Hindu and Muhammadan should be changed then by law.

**Q. 41.** Yes.

**Q. 42.** It is not undesirable if sufficient capital is available to a tenant. The maximum should be fixed at 100 bighas.

**Q. 43.** We do not agree as we think coparcenary by itself is not detrimental to good cultivation. It is detrimental when it creates subdivision of holding. This evil cannot be minimised except by change of law of inheritance.

**Q. 44.** Nothing can be done under the existing laws.

**Q. 45.** If by collection is meant joint collection of rents we do not think it is desirable.

**Q. 46.** Yes, it was contemplated and accordingly provisions were made by the Bengal Tenancy Act for such enhancement. As a matter of fact the zamindars did not generally enhance the rents of the tenants but the tenureholders who held jamas under them enhanced rents of the raiyats as sanctioned by Tenancy Act.

**Q. 47.** It is not the view. The basis of such belief is that when the Permanent Settlement was promulgated it was done as a matter of necessity on the part of the East India Company who knew nothing about the country then. To avoid any unpopularity, consequent clash or revolt of the masses and loss of revenue the authorities thought it safe to hold the zamindars responsible for the fixed revenue with liberty to them to do anything they liked for the internal administration of the country. The rigour of Sunset Law for default in payment of revenue on the parts of the zamindars is an instance to show that the Company was merely concerned with the punctual realisation of fixed revenue. The sole object of the Company as it then stood was to exploit this country which was full of resources and raw materials and was not very anxious to protect the interest of the poor raiyats, although a clause was inserted in the Regulation I of 1793 reserving the right for enactment of legislations for the protection of the interest of the raiyats. The year 1885 saw the assertion of such power in the enactment of Bengal Tenancy Act.

If the fixity of rent was contemplated in the Permanent Settlement Regulation, clause to that effect would have surely been inserted; but contrary indications are found in Acts X and XI of 1859 and Act VIII of 1885.

**Q. 48.** We do not believe that. (d) The wording of sections 50 (1) and (6) of the Bengal Tenancy Act is an afterthought. Other points in this question do not arise.

**Q. 49.** If the rate of rent is high above the prevailing rate then levelling down the same should be provided for by law in accordance with justice, equity and good conscience. Thak maps and Survey and Settlement maps and zamindars' rent roll may be helpful materials in this respect.

It will certainly be difficult if not impossible to ascertain 1793 rents and 1793 tenancies.

**Q. 50.** It was not the intention of the East India Company that the rents of either class of raiyats should remain unalterable, but to clarify the position and to avoid ambiguity of law provisions were made in the Tenancy Acts for enhancement of rents on the ground of the rise of staple food crops.

**Q. 51.** We do not think so. The latter part of the question does not arise.

**Q. 52.** The system already existing seems to be sufficient. A percentage on the market value of the land is preferable.

**Q. 53.** No principle practically. Majority of them can be described as lump rents.

Based on cumulation of all these factors.

Yes, there is such difference in some cases. The variation is due to the conditions prevailing at different times when tenants took settlement.

**Q. 54.** No. Not known.

**Q. 55.** Yes, readjustment of rents on a uniform basis in the shape of a portion of the produce should be made throughout all parts of the province. It cannot be done without a new record-of-rights which would also record yield of each land.

**Q. 56.** 15th part of the gross produce.

**Q. 57.** It should be alterable from time to time according to the money-value of the produce and not according to the needs of the State. To prevent too frequent changes and disturbances the statutory period as in the Bengal Tenancy Act of 15 years may be fixed.

**Q. 58.** No advantage.

Yes, a large portion of land in Bengal would escape the payment of revenue and such proportion would steadily tend to increase.

**Q. 59.** It is defective because it formulated an artificial rule for finding out a prevailing rate, the size of the holding is not taken into consideration and it does not consider the price of other crops excepting staple food crops.

**Q. 60.** We do not object on the ground that it is the landlord: proprietor's land which is improved.

It would not be fair to secure all the benefits of fluvial action to the tenants.

**Q. 61.** Yes, on principle we object.

**Q. 62.** Yes, it is not advisable from an economic point of view.

**Q. 63.** No objection to this ground of enhancement.

Afraid, because neither the landlords nor the tenants can possibly prove at this time as to who actually made improvements, if any; consequently there will arise practical difficulty in giving or not giving compensation in question.

**Q. 64.** There should be a provision of law to this effect and full discretion be given to the judicial officers to determine fair or equitable rents as the circumstances in each case may vary. Such consideration should be limited to the time of the contract made.

**Q. 65.** The relevant section 104 (H) of the Bengal Tenancy Act has, we think, limited the right of suit in a Civil Court.

The amendments of sections 191 and 192 have made the matters worse confounded.

Sections 191, 104 and 75A should be consistent.

Definite rules should be made for working out fair rents so that it may be a matter of calculation only.

The defects are—

(1) No provision for settlements of fair rent of non-agricultural tenants.

(2) Absence of rules which can be easily applied and fair rent worked out.

Regarding procedure, the enquiry and trial should be made by the Civil Courts. Revenue Officers and kanungoes are not competent enough to construe leases and title deeds of parties.

**Q. 66.** We do not know.

**Q. 67.** Yes.

**Q. 68.** Yes, in the Sunderban estates.

**Q. 69.** Yes, certainly it was a mistake.

Yes, this policy has led to legitimate grievances. Recently the practice of enhancing rents of the raiyats in some places has been stopped, but the enhancement of rents of tenureholders continues.

**Q. 70.** The competition for lands, facilities for marketing, vicinity of towns and cities and mills are factors which tend to this dissimilarity.

**Q. 71.** It is a fact no remission of revenue is given to zamindars of permanently settled estates nor to the lessees of the temporarily settled estates even if the conditions are satisfied.

The reason seems to be that no Collectors want to move higher authorities for remission of revenue demand. Probably failure to collect revenue is deemed prejudicial to the Collector's chances of preferment.

Rules should be so framed as to leave it to the discretion of the Collector, and those rules should be so amended as to make remissions

to follow as a matter of course in definite proportion if there is distress or famine in any particular area.

**Q. 72.** Cannot say it definitely.

**Q. 73.** No particular evidence. But generally it is on the decrease. The reason is that fertility of the soil is damaged by continual reaping of crops, more so because no manure is given upon the land to recoup its productivity. Government has so far done nothing to increase the productivity of the soil.

**Q. 74.** Hardly any advantage has been taken of these enactments.

The reason is poverty and ignorance of the people.

**Q. 75.** Expenditure incurred on the maintenance of the staff for improvement of agriculture was always far greater than that incurred in effecting improvement. Criticism to this effect is responsible for the Government's reduction of the expenditure.

**Q. 76.** Salami is realised by the Government in khas mahal and also in settling waste lands. This practice is old.

The money received for salami has never been utilized for the improvement of those lands.

**Q. 77.** The general policy of the Government is mainly responsible for the present uneconomic condition of the raiyats for it has been so shaped that the raiyats have no control over the market of their produce. Paddy, jute and other principal productions are sold at a very low price and the Government has failed to fix minimum price for these products inspite of demands of the people. Money exchange policy is also responsible to some extent.

The modification that can be suggested is that the Government should fix minimum prices for principal agricultural products; and carry on irrigation and manuring, etc., of the lands. The Government should also look less towards increase of land revenues.

**Q. 78.** It depends upon the size of the average holding. If it be 1·9 acres, i.e., 6 bighas, the yield is 36 maunds of paddy, price Rs. 54. Cost of cultivation is on an average Rs. 5 per bigha that is Rs. 18 leaving him an income of Rs. 86 per annum that is Rs. 3 a month or 1 anna 6 pies per diem.

Income of the raiyats from other sources is insignificant which is ordinarily derived by them by day labour, breeding of goats and poultry farming or plying carts or boats. Average income from these sources may be 9 pies per day in the some parts of the country. Most of them remain idle in off season. We cannot say what percentage of cultivating raiyats can maintain themselves for want of sufficient statistics.

**Q. 79.** Not satisfactory.

The system of United Provinces will not work out satisfactorily in Bengal unless there is legal compulsion to notify changes in possession and an officer to appraise crops of each field.

**Q. 80.** In addition to the suggestions made we wish to suggest that the cultivators should be trained in checking animal and vegetable enemies to the staple crops and in scientific agriculture.

**Q. 81.** Pressure of population is not one of the main reasons.

At least half of the population is considered to be surplus. To avert a revolt the rest unemployed should be provided with employments.

**Q. 82.** Not only large industries to be started by the Government but also cottage industries and weaving should be revived and encouraged.

**Q. 83.** No sufficient organisation Government or private. Banks and warehouses are required in every village. With interest rate in the Presidency Banks at 2 to 3 per cent. there is no reason why banks advancing loans at 6 per cent. to agriculturists should not be a success.

**Q. 84.** No. The latter part of the question does not arise.

**Q. 85.** Not at all. Rate of interest is too high in some cases 15 per cent. per annum has been realised.

The co-operative societies could not benefit the agriculturists for want of sufficient capital. In some cases the societies could not realise the amounts, consequently some have gone into liquidation.

We have no information as to the latter part of the question.

**Q. 86.** Debt Settlement Boards have totally destroyed rural credit with the result that the agriculturists have been all the more ruined. In some cases creditors have purchased lands at a cheaper price in lieu of money advanced and regarded as consideration of the loan. Everybody wants its repeal. The High Court has repudiated the Act times without number.

It ought to be repealed at once in the interest of the raiyats.

**Q. 87.** We fully agree with the suggestion.

**Q. 88.** To our knowledge Land Mortgage Banks are very rare. We do not know how it functioned or functions.

**Q. 89.** With the abolition of certificate procedure which was granted to a few of the zamindars there is no machinery for prompt realisation of rents.

Most of the rent suits are decided *ex parte* yet the tenants are saddled with court fees and the landlord subjected to a dilatory process of realising rents. He has not only to pay court fees but various other legal and illegal fees most of which are not recoverable.

One obvious improvement would be if the crops are harvested and kept in custody of the landlords charged with the payment of rents.

**Q. 90.** Yes.

It seems to be an anomaly that the khasmahals having only a small portion of rent to collect require a special procedure and the Civil Courts are thought to be insufficient even though the estates are not to be sold away under the Sunset Law while the zamindars with about 12 crores to collect and with the Sunset Law over their head are expected to survive through the process of the Civil Court.

**Q. 91.** A simple form would be welcome. Main provisions of the Regulations and earlier Acts should be codified in a simple Act.

**Q. 92.** Act XI of 1859, Regulation VII of 1822, Act IX of 1847. The Embankment Act, The Cess Act, The Primary Education Act and The Sanitary Drainage Act operate harshly upon the landlords because they make the landlord and his estate responsible to the Government for realisation of these taxes though the tenants' portion may remain unpaid. The dues under these Acts should be realised directly from the tenants.

The present amendments to the Bengal Tenancy Act are no less harsh to the landlords.

Provisions should be made in the Revenue Sale Law for setting aside the sale if sale money is deposited within 2 months from the date of sale.

**Q. 93.** The economic effect is that the tenants are gradually losing their lands because of the abolition of restriction upon transfers. The landlords have lost their sources of income through transfer fees. The landlords cannot choose their tenants and in some cases the tenant transferees are more influential than landlords.

## Reply by Dr. Nares Chandra Sen Gupta, M.A., D.L.

### **Land System of Bengal.**

The only test for assessing the value of a land system is to ask, does it lend itself to the utilisation of the land to the fullest advantage to the nation or in other words to the fullest development of agricultural wealth. It is by this test that I shall proceed to judge the land system of Bengal.

The total area under cultivation in Bengal is near about 28 million acres. The total value of the marketable crop—after deduction of what is consumed by the cultivators—was Rs. 72·62 crores on the average for decennium ending 1929-30 which included years when jute reached its peak prices. In later years it has approached to the neighbourhood of Rs. 30 crores.

Even taking the higher figure of Rs. 72·62 and deducting from it Rs. 12 crores paid by the cultivator as rent, this leaves an available surplus of Rs. 60 crores per annum to the entire agricultural population of Bengal after providing for food for man and beast on an extremely tenuous scale. Roughly that gives less than Rs. 30 per annum per head of the population dependant for their livelihood on agriculture.

This is bad enough. But when we remember that the agricultural debt which was estimated by the Banking Enquiry Committee at Rs. 100 crores and by the Bengal Board of Economic Enquiry at a slightly lower figure, is charged on this annual net profit of 60 crores, we can see that the position is far worse. The interest on this loan would not be less than Rs. 25 crores at a very conservative estimate, leaving not more than 35 crores for payment of the principal in part and for providing for necessities.

No wonder, therefore, that the debt of the agriculturist continues to sit on his shoulders like the Old Man of Sea. On a per capita income of Rs. 14 to Rs. 30 per year plus food the agricultural population can barely live. They can't pay their debts, and far less improve agriculture.

The value of the agricultural produce of 28 million acres of land is unconscionably low, in comparison with the value per acre in other countries. It can be raised several times over by the introduction of improved methods of cultivation, by crop planning with reference to market values, by organised marketing so as to secure the best value for the crops and in other ways.

The income of the agriculturist can likewise be increased by industrial development which will, by providing profitable employment, withdraw a portion of the population which is unprofitably

employed on the land, by an organised scheme for the utilisation of the surplus labour of the agriculturists on subsidiary industries, by debt redemption schemes and by providing cheap credit.

Each one of these schemes requires a large initial outlay. Even such a simple thing as an improved plough and better draught-cattle to draw them is beyond the resources of the cultivator to provide.

If therefore improvement of agriculture is left to the cultivator, who is the only person who has a direct interest in such improvement, it will never come.

*Improvement of agriculture in the past.*

It would not be quite true to say that there has been no improvement in the position of cultivators. For about three-quarters of a century now, the position of cultivators has been improved in some measure, by extension of cultivation, by the increased value of agricultural produce, particularly of jute, and by legislative limitation of the exactions of landlords. These have enabled an increasing population to get their bare sustenance from land, and a small proportion of them have been able to extend their holdings to such an extent as to be able to rise to the status of employers of labour from that of working cultivators.

This improvement has been set off very largely by a phenomenal increase in the price of agricultural land, though that may sound paradoxical. A boom in prices of commodities led to a corresponding boom in land values and an inordinate craving for more land in all solvent cultivators. They bought land at fancy prices with borrowed money. When the slump came they found themselves burdened with the debt without the means to pay even by the sale of the land.

All this improvement which was due to adventitious circumstances never made agriculture a really profitable industry. But it enabled people to live and to pay their monetary obligations to such an extent as just to take the edge off their want. The past six years have however made their condition miserable.

Beyond bringing more land under cultivation practically nothing, however, has been done within a century for improving the agriculture of the province.

*Reason for stagnation.*

One of the principal reasons for the stagnation in agriculture has been the land system of Bengal. For making improvements except by Government enterprise, two things are primarily necessary. Firstly

there must be interest in making improvements and secondly there must be resources in the hands of the person having such interest. In addition there must be a knowledge of the means by which the improvement can be effected.

The land system of Bengal is very largely responsible for the absence of the necessary interest and resources.

*Outline of history.*

I cannot go into a complete historical retrospect. But I must frankly acknowledge that when this system was given shape, towards the end of the eighteenth century, it was not only advantageous to the State but practically the only possible way for them. It was not immediately of any advantage to the landlords, but became so and continued to be so down to somewhere about the third quarter of the nineteenth century. To the tenants who were on the lands at the time of the Permanent Settlement, the system was disastrous. They were either expropriated or subjected to a terrible amount of rack-renting. The Act of 1859 tried to stem the tide of exactions of landlords, but it was not until the passing of the Bengal Tenancy Act in 1885 that a proper machinery was created for assuring to the cultivating raiyats a really effective status of qualified peasant proprietorship.

The subsequent history is interesting. The passing of the Tenancy Act did not immediately terminate the sorrows of tenants, for it took an unconscionably long time for the benefits of the measure to percolate down to the ignorant peasantry. Roughly speaking it was about the beginning of this century when survey and settlement operations were carried through on a large scale that the tenants got full advantage of the Act, and the power of the landlords was curbed.

But about that time began a movement the result of which has been that at the present moment a very large percentage of the raiyati right in lands is held by non-cultivating tenants. The cultivator is an under-raiyat, bargadar or a labourer in a vast number of cases. This has been the result of a double process. When rayati interests became valuable on account of the effective curtailment of landlord's demands, mahajans, zamindars, talukdars and middlemen became active purchasers of raiyati rights—covertly and by subterfuges mostly before the recent amendment of the Bengal Tenancy Act—and openly since then. On the other hand the improved position of the raiyat and the adventitious prosperity due to increases of prices of crops enabled the cultivators to grow richer and buy more land with the result that every well-to-do cultivator ceased to cultivate and became an employer of labour. The result is that the actual cultivator has been practically deprived of the benefit which the legislature intended for him and in far too many cases the word raiyat has become a misnomer.

*Summary of the present position.*

(1) The zamindars and independent talukdars of permanently settled estates pay land revenue to the extent of Rs. 2,15,00,000 odd and are proprietors of the bulk of the agricultural land of Bengal. Their proprietary right is however greatly limited, both as to the user of the lands and in respect of their claims to rent, by the rights of several grades of permanent tenureholders and by the qualified proprietorship of raiyats.

(2) The raiyats of these estates pay in rent about Rs. 8,50,00,000. So that between the zamindars and middlemen they appropriate as much as at least 6 crores and 35 thousand rupees. Or, in other words, about 300 per cent. of the land revenue of the land is appropriated by those whose present position is nothing better than that of rent collectors. In contrast to this the cost of collection in Government estates is only 8·5 per cent. of the land revenue realised.

(3) The raiyats are, in a vast number of cases, not actual cultivators of the land but exploiters of the labours of others, who work either for wages or for rent in cash or kind. It may be said that the bulk of the raiyati holdings which are not uneconomic is held by this class, so that the bulk of the profitable land of Bengal is cultivated by men who hold on a precarious tenure or are mere labourers.

(4) The ownership of agricultural land is divided. The landlord has the legal ownership, but he cannot dictate how the lands should be utilised. The raiyat has the user of the land, but if his income is improved, the landlord comes in to share it. Where there is an unearned increment due to fluvial action or rise in price of food crops, the tenant shares the benefit with the landlord. The result of this is that the landlord has no interest in improving the land except in a limited measure. He has no interest whatsoever in improving methods of cultivation or providing better marketing facilities for crops, for the benefit of it would go to the cultivator.

(5) Lastly, few people have resources for making improvement in the cultivation and marketing of crops. The cultivator owing to the fragmented small holdings has not the money to invest in improvement. The landlord has not the interest, and on the top of that he has not the means to do anything either.

*Incapacities of the cultivators.*

The cultivating raiyat has an interest in improving the outturn of his fields and their value, but in the first place his interest is divided, because the landlord has in most cases a right to share in the increased profit; secondly, he has not the necessary knowledge for making the

improvement. But far more important than these factors is the fact that he has neither the power nor the resources for carrying out any large improvements.

This incapacity is two-fold, legal and financial. Take such a simple thing as consolidation of holdings. Even if the cultivators between them agreed to do it by mutual exchange, they could not do it in the past without the consent of the landlord, and now under the amended Tenancy Act they cannot carry out their scheme without paying five per cent. of the value of the land to the landlord. In large areas in the province, the thing is further complicated by the fragmentation of proprietary rights with the result that a huge number of different proprietors would be concerned in any such scheme of exchange.

Other difficulties similarly follow from the fact that the raiyat is not the full owner of his land. He cannot deviate from the established mode of user of his lands without risking ejectment. If the cultivators agree to have collective cultivation, they would probably have to introduce vast changes in the mode of user of the lands. They will dig tanks and canals, set up irrigation plants and probably utilise some of the agricultural land for dairy farming, for rice mills and other machinery. In spite of the expansion of their capacity for making such improvements in the Bengal Tenancy Act, many of these projected improvements would make them liable to ejectment by the landlord. In a recent case in Midnapore the Government brought a suit for ejectment against a raiyat because on his bastu land he had erected a rice mill. If an irrigation tank was dug covering a whole holding, for the benefit of other lands of the village, it would be a clear case for ejectment as the tank would not be an improvement of that holding.

These are some of the legal impediments to improvement by the raiyat. But, as I have already observed, his financial incapacity is absolutely formidable. He has not the means to make even small improvements.

#### *Incapacities of the landlord.*

As regards landlords their interest in the improvement of cultivation is more limited. There are only a limited class of works which can be deemed to be improvements which the landlord may have registered and for which, upon such registration, he is entitled to sue for enhancement of rent (at the discretion of the Court) which may or may not compensate him adequately for improvements. If a landlord improves the profits of cultivation by introducing new and more profitable money crops, by organising collective cultivation on improved methods, or by starting a bank for providing cheap money, he has nothing to expect as a result of the increased profits of the tenantry, beyond perhaps an increased security for the due realisation of his fixed rent.

*Resources of landlords.*

As regards resources, the landlord has hardly any more than his tenants. Between 9 and 10 crores of rupees is retained by the landlords of permanently settled and non-permanent settlement lands, out of the rent paid by tenants, and possibly 2 to 3 crores more are realised on other accounts by them. With all that, the average landlord is not flush of cash.

Even at the time of the Permanent Settlement by the side of big zamindaris there was a vast number of independent talukdars and lakhirajdars who were pre-eminently small owners. Since that time there has been a tremendous amount of fragmentation of the estates, big and small, by reason of the laws of inheritance prevailing in Bengal as well as by partial sales. The result of this is that with the exception of a handful of landlords the rest are small proprietors who just make a living out of their estates. Another process has led to division of profits and that is subinfeudation. In some districts like Bakarganj and Noakhali the passion for subinfeudation runs so high that sometimes as many as ten or twelve grades of intermediate tenureholders intervene between the zamindar and the cultivating raiyat.

The result is that with the exception of a handful of rich zamindars the bulk of the landlords are not very well off. With further subdivision of their estates by reason of the law of inheritance their number will daily increase.

The financial condition of landlords is indicated by the fact that every year a large number of the estates default in the payment of land revenue. Out of a total of about one lakh revenue paying estates as many as 30,646 were defaulters in 1934-35, and 31,169 in 1933-34, which is nearly one-third of the total number of estates. In pre-depression days also the number of defaulters every year ranged near about 19,000 or nearly one-fifth of the total number of estates, though actual sales for default were much smaller.

No dependable statistics are available for the sales of revenue-paying estates by Civil Courts. Our experience tells us that they are many.

These defaults in the payment of the light land revenue and sales of revenue-paying estates on a large scale show that the position of the landlord class is anything but prosperous. It is a well-known fact that most zamindaris and other estates tend to get mortgaged to the hilt in three generations on an average.

*Inherent defect of the land system.*

I insist that this deplorable position of the landlord as a class, excluding a few very fortunate ones, is very largely due to the inherent

defect of the land system. There are extremely few landholders who are direct descendants of those with whom the settlement of 1793 was made. The bulk of the present landholders are subsequent purchasers and, in most cases, the estates have passed through a large number of hands during the years since the Permanent Settlement.

This was inevitable. The profits of the zamindar have all along been unproductively consumed. The man who took a zamindari did so in order that he might live in comfort on a secured income without doing any productive work. So long as he had plenty of money he lived well and got used to living well. Investment, except by way of buying more zamindari or lending money to tenants was practically unknown to the zamindar.

Fragmentation by the operation of the law of inheritance reduced the income to decreasing fractions. But the descendants of the one-time rich zamindar neither reduced their style of living nor sought other ways of earning money. Hereditary indolence, attachment to the land and aversion to go abroad and numerous other psychological factors held them to their post so long as the value of their lands gave them sufficient credit. This process working for three or four generations led inevitably to expropriation.

#### *Non-permanence of permanent estates.*

Lord Cornwallis by his Permanent Settlement Regulation sought to create a class of great landowners who would devote themselves to the welfare of their estates and form a stable aristocracy of the land. He overlooked the law of inheritance. A big owner of an entailed estate might reasonably fulfil that expectation of Lord Cornwallis but not men governed by Hindu or Muhammadan Law whose big estates had an inevitable tendency to dwindle in the hands of successors to nothingness.

This want of permanency of the permanently settled estates has been one of the saddest features of the economic life of the province.

#### *Land draws all the wealth.*

In 1793 the zamindaris were not very profitable but they carried a large amount of power, prestige and dignity. By the middle of the nineteenth century zamindaris became very profitable and though the power of zamindars had been largely shorn by the extension of centralised administration, the prestige and dignity of the zamindar remained as high as ever. For these reasons zamindaris and taluk-daris came to be prized above every thing else as forms of investment.

From that time on there has been a great flow of the nation's capital into this channel.

In the forties and fifties of the last century Bengalees took kindly to trade and established large business houses of all sorts. Export and import, mining, plantation, indigo factory, water transport and numerous other forms of business, besides inland trade, were largely manned by Bengalees some of whom made huge fortunes therein. Government services furnished another source of wealth. The legal profession overflowed with wealth. All the huge earnings of the giants as well as the dwarfs of these vocations went to the purchase of zamindaris and talukdaris. Crores upon crores of rupees of the nation's capital were so invested with the object of securing a safe income upon which one might live without working. The result was a starving of trade and business which rapidly went into other hands.

#### *The great sink for national wealth.*

Meanwhile the incessant flow of wealth into land inevitably ran to waste in a few generations. When an estate purchased for a lakh of rupees is sold in forty years for arrears of revenue or in execution of a mortgage decree, what does it mean but this that the entire lakh of rupees has been unproductively consumed in all these years. In this way crores upon crores of rupees of national capital which, otherwise invested, might have brought prosperity, have been utterly wasted.

Where the estate has not been sold but is under a mortgage, the amount of the mortgage represent the value of the capital unproductively consumed.

Several crores of rupees are at the present moment invested on a mortgage of zamindaris, talukdaris and intermediate rights. It means so much national capital locked up in land, because land has so long been such a good investment. The Bengalee capitalist would as a rule fight shy of lending money on a business, however solvent, but he would not think thrice before he forked out the money for a zamindari.

Land—I mean zamindari land—has been the great sink which has drawn to itself in an incessant flow all the surplus wealth of the country from all sources.

#### *Not a good investment.*

Financially the zamindari is not a good investment. Many of the zamindaris of to-day have been purchased by the predecessors of the present proprietors in the days of the boom when prices ranged from

forty to sixty years' purchase. The profits which were rising then have now fallen, and it is doubtful if any zamindari now yields a net profit of two per cent. on the original cost.

*Endowment of idleness.*

Besides, it is an endowment of idleness and breeds its usual accompaniment of parasites. It does not tend to create the active habits of mind, that perpetual wide-awareness to environments which is a *sine qua non* of success in trade or profession. As a training of national character it is terribly depressing.

*No good to any party.*

At the present moment it is doing good to nobody.

It is doing no good to the Government which is losing to the tune of crores of rupees in land revenue which it might easily have raised otherwise.

To the cultivator it has not succeeded in providing a profitable industry. The tenancy laws which have assured a definite status to the raiyat have not always benefited the actual cultivator. And, what with the endless subdivisions and with the perpetual indebtedness of cultivators, uneconomic holdings are growing, where they are not passing out and accumulating in the hands of non-cultivating raiyats.

To the landlords it has done no good. The original Permanent Settlement-holders have mostly been long washed out. The present-day holders are mostly subsequent purchasers who have purchased the estates at prices which give them less than 2 per cent. return on that outlay and a precarious one at that. They are daily being sold out, not necessarily because of any inherent vice in the men but because of the inevitable tendency of the system. A pathetic clinging to bad investments till you are sold out is a feature of landownership in every form. Besides landownership ties you more or less to a locality and cramps your capacity for development. And the occupation of a rent receiver has a toxic quality all its own—which promotes indolence and incapacity for active work. In all these ways landownership has done no good to the landlords.

It has been the prime source of economic stagnation and degeneration of the province.

*What is the remedy?*

The answer which is glibly given, often without thought, is to abolish the Permanent Settlement. If that means the abolition of the mere

permanency of the settlement it will do no good to any one, beyond bringing a little more money into the hands of the Government.

The root of the mischief is the zamindari system and not the Permanent Settlement. The abolition of the zamindari system and a redistribution of the land among cultivating proprietors each of whom would have an economic holding and pay reasonable taxes assessed on their income as a basis for the future economic structure of society would be an ideal arrangement, and any programme which will lead to the realisation of that ideal would be deserving of every consideration.

With regard to any such programme we have to bear in mind the fact that under the Government of India Act of 1935 no Indian legislature can take away the rights of zamindars and middlemen without compensation.

#### *Purchase of zamindaris—practicability.*

Compensation must therefore be paid to the zamindars and middlemen before such a programme can be worked out. At 15 years purchase the value that would have to be paid to the zamindars and middlemen together would be roughly 150 crores of rupees.

To enable the country to pay the interest and contribute to the sinking fund for such a heavy loan the profits from agriculture has to be very largely increased. At present, as we have seen, the total value of the marketable crop of Bengal cannot be calculated on an average at beyond 50 crores of rupees, though in prosperous years it has gone to the neighbourhood of 80 crores. Out of this you have to provide for roughly  $2\frac{1}{2}$  crores of the agricultural population. The total value of the crop hardly suffices to keep this population in comfort and is not likely to yield such a surplus as would suffice to provide the interest and sinking fund for the loan.

The buying up of zamindaris and intermediate interests in order to be of any use must therefore follow and not precede a programme for increasing the agricultural wealth by an aggressive economic policy.

#### *Increase of agricultural wealth the primary problem.*

Whether you seek to buy up zamindaris or you leave them there, the primary problem therefore is to increase the agricultural wealth so as to make agriculture a profitable industry. If you can succeed in multiplying the wealth, the purchase of zamindaris would cease to be an urgent problem and might be worked out at leisure.

*Planned production and marketing.*

I am very definitely of opinion that it is possible substantially to increase the agricultural wealth of the province by a great programme of improved methods of planned production and co-operative marketing of agricultural produce, of development of industries, notably subsidiary industries, in several areas, and of a rural banking system to finance the programme.

Elsewhere I have given an outline of such a scheme and I have repeatedly requested the Government to start a few experimental stations where the scheme may be tried at a low cost. I have not yet succeeded in getting the Government interested in the project. But I am confident that if experiments are made on those lines they will succeed, and if success is achieved in these experiments the economic problem of Bengal will be solved.

The effect of the organisation which I visualise as the end of that programme would be that the resources of the province with its rich land and teeming labour would be put to the fullest use under the guidance and control of expert agencies which will be in a position to deal with the economic resources of the entire province as one whole and under whom the labour of each man will supplement that of every body else in the province and jointly build up a rich fabric of prosperity for the province. That economic structure will solve every problem and find work and wages for all, zamindar and peasant, bhadralok and labourer, and make them all prosper.

**Reply to the questionnaire.**

**Q. 1.** I cannot accept this analysis of the objects of the Permanent Settlement as an exhaustive one. There is no object clause in the Regulation which purports to set out the complete purpose of the law and this has to be gathered from the provisions of Regulation I of 1793 as well as the Decennial Settlement Regulation and the minutes conveying the proposals to the Court of Directors. Thus viewed, the objects of the Settlement would seem to have been not only those set out in the question but also at the same time to secure a complete record-of-rights of tenants of all classes and a comprehensive adjustment of all matters relating to the land system. In point of fact it is true the other aspects of the two Regulations got lost sight of and came in course of time to be abandoned but the original object was certainly to settle the rights of all parties concerned in land.

The Permanent Settlement did not certainly take away any existing rights of tenants, but on the contrary sought to safeguard them. But

the effect of the measure was exactly the contrary. By the abandonment of the clauses of the Decennial Settlement Regulation designed to settle in a firm manner all existing rights of istemrardars and khudkasht raiyats and by overemphasis on the proprietary rights of zamindars and their free power of disposition of their lands which they first acquired under the Decennial Settlement, zamindars were placed in a position to override the long established and customary rights of these tenants.

**Q. 2.** In respect of waste lands and lands in their khas possession, yes. But in respect of tenanted lands, no.

**Q. 3.** This question is a very large one. On the whole the only part they have played in the economic development of the country is by extending cultivation, though less by their positive effort than by reason of the normal increase of demand for land with growing population.

As a body the zamindars have not fulfilled the functions expected of them. They have seldom laid out capital or enterprise to improve cultivation, and by subinfeudations on a wide scale as well as by inordinate exactions made by them from tenants before the Acts of 1859 and 1885, they have definitely belied the expectation that they should extend to their tenants the same generous treatment that they got from Government.

The reasons are many. Firstly, the zamindars with whom the Permanent Settlement was concluded were not good businessmen but were luxury-loving aristocrats entirely in the hands of their agents. A great many of them lost their lands as a result and were succeeded by a different class who laid out their capital to purchase estates and were themselves better businessmen, though principally in their capability for feathering their own nests at the cost of tenants. But their "heirs and successors, again becoming less active and more extravagant..... frequently ran into debt and brought their estates into the market." The statement to this effect made by Raja Ram Mohan Roy in 1832 sums up the first aspect of the question. In hereditary zamindars there was no sort of guarantee of efficiency in management; on the other hand, the increasing unearned income from zamindaris and the facility with which loans could be obtained against them promoted and encouraged indolence and extravagance.

Secondly, the new class of zamindars by purchase had invested a large amount of capital and strove above all to get as high a return for it as possible, not by improving cultivation as they might have done but by putting the screw down on raiyats for which they had ample facility till the Bengal Tenancy Act effectively curtailed their powers and in fact for a long while after that until survey and settlement

operations carried out on a large scale for the first time acquainted the general body of raiyats with their legal rights.

**Q. 4.** Both questions are capable of an affirmative and a negative answer. The zamindars with whom the Permanent Settlement was made were, some of them, successors to feudal or semi-feudal landlords who were proprietors, though their proprietary right was hemmed in by customary rights of tenants; others were merely rent farmers; a reference to Firminger's introduction to the Fifth Report will show this.

**Q. 5.** I consider the question to be irrelevant. Assuming everything in favour of the solemn covenant, it is assuredly of no greater sanctity than the Magna Charta or the Petition of Rights. Yet, no one in England can question the undoubted right of the Legislature to abrogate these laws if they think that the interests of the State demand it. Very little of the Magna Charta remained untouched by the DORA during the War. If therefore the interests of the country demand the change, no sanctity of contract can be set up against the right of the Legislature to make it.

The question therefore is what the present requirements of society demand. If an abolition of the system is clearly indicated, the only question would be one of adjustment of the disappointed expectations of the zamindars so far as such adjustment is consistent with the interests of the State.

I do not rely on the argument which is more or less of a pettifogging nature that the tenants were no party to the contract.

Apart from the larger question of the economic needs of the country which must be the governing principle, even within the four corners of a legalistic argument from contract it is permissible to say that the contract of Permanent Settlement, so far as it was a contract, related only to the fixation of the land revenue payable. No other question was fixed by the contract. The status of zamindars as actual proprietors was assumed and was not an operative part of the contract, and, by the Decennial Settlement Regulation full power was reserved to the State to make laws for the protection and benefit of tenants. No legislation therefore which seeks to define, stabilise and improve the position of tenants can be attacked as a breach of contract if the land revenue is not raised.

Talking of the contractual rights of zamindars, one thing is seldom talked of. Zamindars are, in one respect, enjoying rights far in excess of what they bargained for.

By a Regulation passed before the Decennial Settlement all sayers were resumed by the Government. The idea obviously was that these

rights were in the nature of franchises which, in English law, do not go with the ownership of land. The object of this legislation was to resume to the State all such rights. The Decennial Settlement excluded all sayers from the assets of proprietors. The idea of realising sayers by the State was eventually abandoned for the time being, but it was never re-granted to the zamindars.

Yet, zamindars have since then systematically realised all sayers and these form now a no inconsiderable portion of the assets of a great many zamindaris. It is true that their right has been subsequently recognised by the Suddar Dewany Adawlut and the High Court, on an interpretation of the Regulations which is entirely unsustainable. But reading the Permanent Settlement as a contract, there is no room for any legal claim by the zamindars under this contract to realise tolls from hats, gunges, bazars, or ferries or khutagaries *ad hoc et genus omnie*.

**Q. 6.** I have already answered this question before. I think that the increase in area attributable to the third cause has been infinitesimal. The two other causes, as well as the increase in value of agricultural produce like jute have been responsible for the great bulk of the increase.

**Q. 7.** I do not think any reliable figures are available. My impression is that the most potent factor has probably been the increase in the value of agricultural products—notably jute.

The improvement in the rent roll has been greatly due to the industry and good management of the zamindars in this that the capable zamindars, not forgetting the talukdars, perfected the system of rack-renting before the rent laws limiting their exactions were passed. Except developing this system to perfection the zamindars have not shown very remarkable industry and good management in developing the resources of the country. In the Sundarbans and some other areas, they had to make outlays in reclaiming and protecting the lands, but over the bulk of the province reclamations have been made pre-eminently by tenants.

**Q. 8.** Not before 1885 or probably later. Since the provisions of the Bengal Tenancy Act came to be widely known the zamindars have not been guilty in a very large measure of want of moderation to the extent to which it was required of them by the Bengal Tenancy Act.

**Q. 10.** I think that the land system inaugurated by the Permanent Settlement, whatever its benefits in the past, has long become economically disastrous for the province. See my note on the Land System in Bengal.

**Q. 11.** Each of these criticisms is fair in part, but some of these lose sight of some facts.

Thus, for instance, the implication of the first criticism that zamindars are getting more from land than they have earned, lose sight of the fact that a great deal of new capital has been laid out on the purchase of estates. Judging from the point of view of return of capital laid out by purchasers of estates, these properties hardly yield a fair rate of profit to late purchasers.

With regard to (iv) the overlordship which was a potent social factor in the eighties of the last century has become less than a mere shadow now.

As for enhancement of rent, it would be hardly fair to attribute it wholly or even substantially to the Permanent Settlement. A comparison with khas mahal rents as well as with the rents in raiyatwari provinces, do not make out that the burden has been greater on account of the Permanent Settlement.

**Q. 12 to 18.** My reasons for the abolition of the Permanent Settlement are solely based on the disastrous economic consequences of the entire land system based on it, which I have expounded in my note on the Land System in Bengal and not on any of the grounds in question 11.

If nothing else is done, the abolition of the Permanent Settlement or even of all intermediate tenures would be of no use whatsoever.

If land continues to be cultivated by a multitude of starving cultivators without resources to make agriculture a profitable industry, the mere removal of the incubus of landlords and the substitution for it of the State would be of no benefit whatsoever.

While I hold and insist that the whole land system should be radically recast on lines which would enable the country to get the utmost value from its resources in land, I hold as strongly that if such readjustment is not made, the mere abolition of the Permanent Settlement would be an wanton act of spoliation and breach of faith to no purpose.

To judge the effect and extent of such spoliation it will be necessary to remember that since 1793 tons of capital has flown into land, not for improving the land, it is true, but to buy the estates on the faith of their being what the laws of the time said they were. The rights of these purchasers may require to be abrogated, if necessary, in the higher interests of the community, but simply to drive a coach and four over those rights without increasing the general resources of the country by a great constructive scheme of reconstruction would be wicked and unjust.

And we have to remember the repercussions of such a measure. A very large population, parasitical it is true, are now feeding on these rights and the land forms the economic basis of all the contribution that intellectuals drawn from their ranks or maintained by them have made to the welfare and advancement of the country. To tear them from land and set them adrift in the world may be necessary in the larger interests of the country if such interests are visualised and adequately provided for in the scheme, but without such provision such a measure will cause great harm to the social well-being of the province without any compensating advantage.

The fundamental thing wanted is to make the land capable of yielding a great deal more of wealth than it now produces and to enable it to support the population depending on it in a reasonable standard of comfort.

At present the uneconomic holding is the rule rather than the exception. The man who tills it has not the resources even to buy the seed. The outturn he gets from it is not usually enough to maintain his family for even six months in the year.

This evil can be got rid of in one of two ways, (1) a drastic redistribution of holdings with units not less than say 3 acres for a holding, coupled with laws forbidding subdivision below that limit, and (2) collectivisation. The first would be a change far too revolutionary. The second on the other hand is a method which can be made to succeed by a sustained programme pushed through with all the resources of the Government.

If collectivisation is deemed too ambitious, at least some modified form of cultivation on a co-operative basis may be tried for a start.

That being the objective, the whole land system should be so organised as to remove all impediments to collectivisation or co-operative farming on a profitable footing.

The greatest impediment is the complex hierarchy of landlords, further complicated by the fact that the estates of these landlords themselves often consist of undivided fractions of lands.

This system can be got rid of by one of the following decrees:—

(1) Buying up all estates, tenures, as well as raiyati rights of non-cultivating raiyats, so that the cultivating raiyat should hold directly under the Government.

(2) An arrangement by which not more than one landlord responsible for the revenue should intervene between the State and the cultivator.

I need hardly point out that I do not look upon the statutory raiyat who does not cultivate as entitled to a status other than that of other middlemen.

The first of these schemes, if the necessary finance and administrative machinery is available, would be the best.

To carry out the scheme we should have to proceed in the same manner as in land acquisition proceedings. The rents paid by cultivating raiyats being taken as the basic assets it will have to be capitalised on the basis of say 15 years' purchase. From this capital value will be deducted the capitalised land revenue. The result would be the entire compensation which will be divided between the various interests on the lines of apportionment proceedings in land acquisition cases.

In calculating the basic assets, I would not make any allowance for prospects of enhancement of rent. But if such allowance is made it should be a small fixed statutory percentage and not left to be determined by the facts of each case. And I would reduce the amount where reduction of rent is called for in the estate.

The amount of compensation payable to the land owners should be paid by bonds redeemable in lots at the end of say 40 years.

There are two difficulties which have to be faced in this scheme. First of all the question of finance would be formidable.

On a rental basis of 16 crores the compensation payable would be Rs. 240 crores at 15 years' purchase. But in fact it would be considerably more, as the interests of non-cultivating raiyats being included, the rental basis would be considerably larger, possibly in the neighbourhood of Rs. 300 crores. For service of this loan, including 3 per cent. interest and say 1½ per cent. sinking fund, we shall want an annual sum of Rs. 13,50 lakhs.

Assuming the rent realisable from tenants to be Rs. 20 crores, we have to set off against this the cost of the huge establishment that would be necessary to realise this rent. Assuming that the present rate of cost of management of khas mahals, viz., 8·5 per cent., can be maintained, the cost of this establishment would be at least 170 lakhs. So that the net realisation of the rents would be nearly 18 crores.

On the basis of a cent. per cent. collection this would leave a margin of Rs. 450 lakhs after paying the amount payable for the service of the loan.

Against this will have to be set off the total loss of land revenue which would have been redeemed by capital payment though merely by a book entry.

Considering that the cost of management may not be kept down to 8·5 per cent., and that a hundred per cent. realisation is not to be looked for, this does not in my judgment leave any margin for safety, while it makes it impossible, until this debt is redeemed, to make any substantial outlay for improving the condition of the cultivating raiyat.

These figures make the financial aspect of this venture far from encouraging.

Then there is the question of the organisation of the rent collection on a raiyatwari basis all over the province. To say the least of it, it cannot be done overnight.

The work of this organisation will take years. And the preparation and maintenance of a record-of-rights will involve not only a large outlay but enormous labour spread out through years.

To some extent the difficulty may be minimised by working piece-meal instead of buying up all estates in one deal. From the organisational point of view this scheme would give some advantage. But the financial aspect of it would not be materially changed by it.

I should therefore prefer that the Government should not embark on any such ambitious project just yet, though power may be taken immediately to acquire zamindaris on these terms at any time.

The second alternative which I suggest has the merit of not involving any outlay and not forcing on the Government the organisation of rent collection immediately.

On this scheme the land laws should be recast on the following basis:—

(1) There should be a simplification of the Land Register by eliminating all small and fractional tauzis so that each estate on the Land Register consists of substantially large and compact areas of land.

(2) For each such tauzi there should be one landlord responsible for the revenue and directly under him there should be the cultivating raiyats.

That would mean the elimination of (a) the holders of small tauzis and lakhirajes scattered about the area of a large estate and (b) of all but one of the hierarchy of landlords that exist now.

I do not propose that these should be expropriated or bought off. They should have no interest in the land. Their interest would be converted into a charge on the rents obtained by the zamindar paying revenue to the Government.

I shall illustrate by an example. Parganna Sultanpur forms a single compact block of land which is suitable for being formed into one estate.

Within the area of this parganna there are several small kharija taluks with net assets of Rs. 10,000; lakhirajes with net assets of Rs. 10,000; various under-tenures with net assets of Rs. 10,000; raiyats held by non-cultivating raiyats with net assets of Rs. 20,000.

The rent roll of the cultivating tenants in the entire area is Rs. 2,00,000. The land revenue payable for Sultanpur is Rs. 2,000 and for the kharija taluks Rs. 1,000.

Now under my scheme, the entire area of Sultanpur Parganna should be made into one estate paying Rs. 3,000 as land revenue.

Let us say *A* is the zamindar of Sultanpur, *B, C, D*, the tenure-holders, *E, F, G*, the kharija talukdars and lakhirajdars, *H, I, J*, the non-cultivating raiyats.

*A* will be the proprietor of Sultanpur who will collect from the cultivating tenants the entire rent of Rs. 2,00,000, and pay the entire revenue of Rs. 3,000. But he will have to pay out of this income the sum of Rs. 10,000 to *B, C* and *D*, Rs. 20,000 to *E, F* and *G*, and Rs. 20,000 to *H, I* and *J*.

Where the basic rent of Rs. 2,00,000 is reduced on principles hereafter stated, there will be a proportionate reduction of these charges, that is to say *B, C, D* will get 1/20th, *E, F, G* will get 1/10th, and *H, I, J*, will get 1/10th of the entire reduced rent.

The rights of *B* to *J* would not be rights to the land but a charge on the rents. The simplest means of enforcing this charge would be for the Government to realise these Rs. 50,000 along with the revenue and distribute it to those entitled to it, as malikana is distributed. Or these charge-holders may be allowed to realise it by mortgage sale of the entire zamindari.

There may be cases in which *A* may refuse to engage for the zamindari on these terms. In that case the settlement may be offered to tenureholders, lakhirajdars and middlemen raiyats in such order as may be reasonable, but so that no more than one person shall engage for the revenue. And whoever becomes the zamindar by such settlement will be liable to pay off all charges. If everybody refuses, the estate may be managed khas and the profits distributed among the charge-holders, leaving the balance to the Government.

This will at once remove from the land all persons except one zamindar and his cultivating tenant, simplify the land laws enormously and make it possible to carry out collectivisation or any other project for the improvement of the peasantry without having to count a multitude of proprietors and sub-proprietors. And this reform can be carried out without any capital outlay and without immediately taking up the burden of rent collection all over the province.

**Q. 21.** The beneficial effect would be nil, if we stop at the purchase of tenures. If a whole scheme of planned land reform is carried out, the danger of atomised society following from it would be averted by the organisation of the people into co-operative units.

**Q. 22.** In any scheme for elimination of zamindars and tenure-holders, the ownership of the homesteads and khas lands must be left with the expropriated owners. On my scheme above given the home-stead and khas lands, if cultivated by the holder himself, will be made liable to rent paid to the zamindar. If khas lands are not cultivated by the owner, it will pass with other lands of the estate and will be taken into consideration in calculating the assets in respect of which he will have a charge on the rental.

**Q. 23.** The occupancy right is a creature of legislation. It approximates to the status of the old khudkasht raiyat, with rights better defined but less extensive.

**Q. 24.** This question has the look of a very controversial question because it is possible to pick out texts of Hindu Law which give apparently conflicting views on this question. The law actually in force in Moghul times which was not the law of the Shariat also gives no unambiguous indications on the point.

In considering all this evidence, the trouble arises from the fact that we seek to interpret it in terms of a highly technical analysis of the concept of property, derived from Roman jurists and developed by modern jurisprudence. If we remember that these concepts as analysed by modern or even Roman jurists were not present to the text writers we should be able to approach the question from a proper perspective.

For one thing, we must remember that these ancient texts deal with concrete land and not the abstract concept of ownership in land. In the second place, we must remember that ownership in ancient times did not necessarily imply a free power of disposition. Thus a Hindu according to ancient texts was the owner of his lands, but he had not the power according to those texts of selling or disposing of it without the consent of his sons. According to yet another text land could not be transferred without the consent of co-villagers, agnates, the chief, and of heirs. It is true that in one text the sons and grandsons are mentioned as equal owners of the land, but that was a later logical explanation of the fact of inalienability of land.

When a tenant held land under another person, it would be quite possible for the landlord to say "the land is mine" and for the tenant also to say that the land was his. That had no reference to the question as to what exact rights each had in the land. Isolated texts which say that the land belonged to the king or the chief or the tiller would

therefore not necessarily convey the notion that ownership in the land in the modern sense belonged to either.

It would be quite correct to say that the land belonged to the king and he could grant it to whom he liked. It was equally true that the land which he tilled belonged to the cultivator. He expected to go on cultivating it for all time subject to payment of the king's share to the king. It would be as true again that the land which the king granted to a person belonged to the grantee.

Any person to whom land was granted by the king or Samanta would be entitled to enjoy all waste land as he chose. But where there was a tiller on the soil, the grantee would not be entitled to oust him but only to receive the king's share from him. It also appears that grantees of land who were Brahmans and Kshattriyas usually cultivated the land by labourers who were their clients or let it out on a system of barga. But by custom everybody who was on the land in any capacity was expected to continue on the land in that capacity from generation to generation.

This was the state of facts indicated by the texts. It would not be possible on this footing to fix the seat of the absolute ownership in the land where the same land was owned by two persons each in his different right.

**Q. 25.** The protection which was sought to be given to occupancy raiyats was meant to be and could only be justified on the footing that the occupancy raiyat was the tiller of the soil. In my opinion the benefit ought to be restricted to the cultivating tenant or bargadar, and it should be withdrawn from all others as well as from all tenants of land not strictly agricultural (including the homestead of the cultivating tenant himself).

**Q. 26.** (a) These should have protection only to the extent of land cultivated by them including land temporarily sub-let by them for a maximum period of nine years.

(b) These should be placed on the same footing as tenureholders except where sub-letting is temporary for a maximum period of nine years without renewal.

**Q. 27.** I do not think so. There should be no occupancy rights for non-agricultural tenants.

**Q. 28.** No such lands should automatically go out of the protection of the Bengal Tenancy Act except where diversion is temporary.

**Q. 29.** Yes. The increase is due to the increase in the value of raiyatis and the economic helplessness of cultivating raiyats which has led to the continuous purchase of raiyats by non-agriculturists.

**Q. 30.** The suggestions are correct. The other and primary causes are those referred to in the last answer.

**Q. 32.** Yes.

**Q. 33.** It is not. The solution in my opinion lies in the drastic reconstitution of the land system suggested above.

**Q. 34.** I do not think there is any reasonable apprehension of the results apprehended in the questions materialising.

**Q. 37.** My answer to all the questions is in the affirmative.

**Q. 38.** It is not possible to lay down any general rule for all lands. The economic holding is one, which, properly cultivated, will yield enough to support the tenant's family and yield reasonable return for his capital outlay. The size would therefore depend on the fertility of the soil, the nature of the crops that can be grown on it, the methods of cultivation and climatic factors. It must be different in different regions. As a rule of the thumb a cultivated area of three acres plus a reasonable homestead would seem to be about the minimum.

**Q. 39 to 42.** Many holdings are uneconomic and more are becoming so by fragmentation due to inheritance and transfer. On the other hand, in the hands of more opulent tenants small holdings are tending to some extent to be consolidated.

Uneconomic holdings must be got rid of unless some scheme of collectivisation can be devised. Collectivisation would of course remove the evils of uneconomic holdings.

Consolidation, by giving facilities for exchange, would operate only where the tenant has a fairly large area of land in separate and distant plots. It would be of no help in the case of cultivators, who are not very few, whose total land holding does not reach the economic limit.

No voluntary scheme can achieve all round consolidation of lands into compact economic holdings. The only effective means would be a compulsory re-distribution of lands.

A scheme, which if not seriously resisted by agriculturists could be effective, would be to acquire all agricultural lands in the village by payment of compensation and re-allotment of lands in compact blocks in lieu of the compensation. This would necessitate the buying off of some small tenants and where individual holdings are too large the allotment of a smaller area. In such cases money compensation will have to be paid, such money being recovered from those to whom larger allotments have been made.

Such a scheme would be so revolutionary however that it will certainly lead to a great volume of agrarian discontent. I would therefore

recommend an aggressive programme of collectivisation as the better alternative.

No scheme of consolidation will be of any avail unless further fragmentation is effectively prevented. This can only be done (*i*) by invalidating all transfers of portions of holdings if the effect of it is to reduce either part to less than the economic limit; and (*ii*) by providing that where a holding is inherited by several heirs if the division among heirs results in producing uneconomic holdings, the holding shall be allotted to only one heir, the rest being compensated in money.

**Q. 44 and 45.** On my scheme the question will not arise. If co-sharer landlords are retained, I do not think it would be feasible to compel joint collection.

I contemplate that in any future scheme the landlords' demand for rent should be fixed and certain. In that case the tenants cannot be seriously harassed by reason of the coparcenary.

**Q. 46.** It would be rash to say that the Regulation did not contemplate any enhancement of rent. It only contemplated that the customary or contractual rights of tenants as embodied in their pattas should not be encroached upon. It also envisaged the existence of tenancies whose rents could not be enhanced. But that it did not contemplate the enhancement of rents of paikasht tenants by custom would be a bold assertion not justified by evidence.

**Q. 47 and 48.** See last answer. I do not think that the rents of any tenants except istemraridars, mokararidars and khudkasht tenants were regarded as fixed. None of the grounds referred to in question 48 justify such a conclusion.

**Q. 49.** No case for such reduction can be justified on any such abstract considerations, and of course there is great paucity of materials for determining the rents at the time of the Permanent Settlement.

We must remember that the zamindars of to-day are not all or even most of them those with whom the Permanent Settlement was concluded. Most of them are purchasers at a time within 30 or 40 years from now. Such persons have purchased the properties on the footing of rights under the laws as they stood since 1855. As it is, many of these properties were purchased at very high prices so that their yield on capital outlay often comes down to less than 2 per cent. per annum.

Under these circumstances there is no rule of abstract justice or equity which can justify the reduction of rents received by them.

The question of reduction of rent cannot be judged from such abstract considerations based on supposed terms of an ancient contract

in disregard of all subsequent history. Reduction of rent can be justified and will be imperative only when it appears that the land is not capable of bearing the rent assessed on it. If the entire outturn from a plot of land at its present money value comes to Rs. 5 or 6, it would be absurd to say that it should bear a rental of Rs. 3 and leave next to nothing to the cultivator as recompense for his labour and outlay.

There are many parts of Bengal in which the rental has become too high from this point of view. In other parts the rent is a very small fraction of the entire yield. In the former case a reduction of rent would be called for, but not in the latter, and the only valid ground for reduction would be the economic ground.

**Q. 50.** I consider discussion of this question to be fruitless. Whether it was a mistaken policy or otherwise to let the landlord have a share in the unearned increment of income from land in the past, I think that, for the future, it would be sound policy to lay down that all unearned increment should go to the tenant.

**Q. 51.** I do not think that it would be legitimate to infer that this was the intention of the Permanent Settlement Regulation. As regards pargana rate, I doubt if the Regulation considers the rate to be unalterable either.

**Q. 52.** I wholly repudiate Ricardo's theory of economic rent and do not consider any adaptation of it to be justified. I consider none of the six bases for adjustment of rent as the proper one.

The general policy, with proper exception in hard cases, ought to be to make no attempt to assess the justice or otherwise of past rents, but to proceed on the basis of existing rents as facts. I should therefore not enter into any discussion as to whether they were justifiable except on the sole ground that the land is economically incapable of bearing the burden. For the future the law must be stated on the footing that the landlord should be entitled to just so much and no more as rent, as would give him a reasonable return for the present capital value of the property.

This would be a compromise between the principle, which I hold, that no person has any moral right to any profit from land on which he does not work, and the existing fact of vested interests. Property in land has till now been recognised, with the result that the proprietor as such has acquired a vested right to some benefits from his land. Except in cases of economic necessity I would not interfere with the vested right so far as it goes. But I would forbid its further extension. For the future, all benefits of the land, save so much as is covered by interests already vested, should go to those who work it.

On this footing there should be no question of settling fair and equitable rent. The landlord would be entitled only to the legal rent which will be fixed on the above principle, which I shall illustrate by an example.

Suppose an estate or a tenure covers an area of 1,000 acres of which the present market value is Rs. 1,00,000, and the net rent (after deducting head rent or land revenue, etc.) is Rs. 3,000. This means that the land yields 3 per cent. on its capital. The legal rent would therefore be Rs. 3 per acre which would ensure for him a reasonable return for his capital outlay. This should be the rent fixed for all lands on which the rent has not yet been settled. As regards land which is already tenanted there must be no further increase.

If, on the above basis, the rent comes to say Rs. 20 per acre, that would be excessive if inquiry shows that the land is not economically capable of bearing that rent and this must be reduced to a figure at which land can be profitably cultivated, given holding of an economic size.

**Q. 53 and 54.** In my limited experience I have found the fact to be that rents are determined largely by custom. But the customary rate tends to change and grow by the combined effort of landlords to push up rates by taking advantage of competition in settling new lands. I have not found that richer tenants pay low rates in my experience.

**Q. 55.** A uniform rate for the entire province is impossible. Two considerations should govern the assessment of rent, (1) the vested right to existing rents, and (2) the economic capacity of the land to bear it. The money value of the crops, the yield per acre as well as the labour and cost of the agricultural operations in the different regions widely differ. The economic capacity of the land to bear a rent would accordingly differ. On the other hand, existing rents, which should not be disturbed, unless necessary, also vary widely. In these circumstances a flat rate for all Bengal cannot be thought of.

**Q. 57.** The rent should be fixed but not under any absolute guarantee of permanence. A change in economic conditions may necessitate an alteration in the future for the benefit of cultivators. That should not be shut out by any undertaking which, like the Permanent Settlement, may be set up as an unalterable contract. I contemplate that any future alteration must be by a fresh legislative Act.

**Q. 58.** On grounds of administrative convenience I am against agricultural income-tax in the place of rent. Besides, rent is a well understood and fixed liability which involves no inquisitional investigation and offers no opportunity for evasion. Income-tax is the reverse of this and it will take years before the agriculturist gets used to it.

The resulting dislocation will have fearful repercussions on the revenue.

While I am opposed to agricultural income-tax as a substitute for rent on these grounds, I am not scared by the possibility of low yielding lands being held free of taxation. There is no moral or economic ground why some lands may not be held free from payment of revenue.

Nor am I opposed to agricultural income-tax by itself. On the other hand, I think that if rent and revenue are now scaled down and fixed on a low basis, income-tax may be safely and justly imposed to tap the future surplus income thus set free for purposes of revenue when necessary.

**Q. 59 to 62.** The provisions of the Bengal Tenancy Act regarding enhancement are based on altogether wrong principles. My view of the principles on which rent should be fixed I have already stated.

The Bengal Tenancy Act seeks to give the landlord a share in the unearned increment. There is nothing wrong in the idea once you concede that ownership of land gives title to a share of the profits from its use. I do not accept that principle, and would like to see the principle to be abrogated in the case of all capitalists. There is certainly an element of injustice in seeking to deprive the landlord alone among capitalists of unearned increment while all other capitalists like miners, jute-mill-owners and others, enjoy in a far larger measure the fruits of such increment. All sheep should be shorn in the same measure if you want justice.

Assuming that unearned increment may be shared by the landlord, there is nothing wrong in the provisions of the Bengal Tenancy Act. Fluvial action or rise in prices may not have been brought about by landlords but they have not been created by the tenant either. And the law does not provide for the landlord taking more than only a share, and no very large share, if the law is properly administered, of the increment. The only defect in the law is that there is not a perfectly coterminous provision for the reduction of rents from opposite causes, and that the decennial basis for enhancement on the ground of rise of prices often operates hardship. Thus when there was the recent landslide in prices the landlord could yet successfully maintain a suit for enhancement on the ground of rise in prices. The discretion of courts provided by the Act was not always an adequate safeguard.

While thus I consider that the enhancement sections are fundamentally wrong in principle, I think that if the basis is accepted there is not much wrong in the provisions if the defects above mentioned are removed.

**Q. 64 to 69.** My observations on the last question sufficiently indicate my views on these questions. The settlements have generally resulted in enhancements of rent but, while the personality of the Settlement Officers greatly affect the rates, it cannot be said that they have as a rule given excessive enhancements assuming the fundamental principle on which the landlord is entitled to unearned increment to be justified.

**Q. 73.** There has undoubtedly been a substantial decrease of productivity in western Bengal, though probably that is mostly traceable to growing inadequacy of the resources for irrigation. I do not think that productivity has decreased in East Bengal, at any rate in areas covered by seasonal floods.

My impression is that the Government has done practically nothing to improve productivity. The benefit of the researches in the laboratories and farms of the Agricultural Department have not, except to a small extent, in the matter of distribution of improved seeds, reached even an infinitesimal part of the agricultural population.

**Q. 74.** With regard to the first two Acts they are practically dead letters. The Rural Development Act has practically been given effect to only in the Damodar Canal area. The result has been a considerably improved revenue from the Damodar Canal but no increased net benefit to the cultivators.

The reasons are that first two Acts are fundamentally defective in as much as they leave the initiative to the people who are not even acquainted with their provisions and to the Collector who is essentially an administrative officer with multifold duties which absorb all his attention. Where enterprising people do take the initiative, as often at least as not, impediments are placed in the way of the scheme by red tape and partly also by the rigorous provisions of the Acts.

The Rural Development Act is more satisfactory but it is inspired by a much too grasping desire for revenue and a thousand and one frightening provisions for an arbitrary assessment of the rates.

For carrying out real improvements on a large scale, both the laws and their administration should be inspired by a sort of missionary zeal. Improvement schemes should be thought out on a comprehensive scale primarily with regard to the enrichment of the peasantry and only secondarily with regard to the revenue. The initiative should be taken by Government and the people induced to agree to schemes by active propaganda and demonstration carried to their door. There must be an aggressive movement for improvement not unlike what was done by Soviet Russia in pushing forward their plan for collectivization.

**Q. 79.** The present system of Land Records is defective in as much as (1) it does not record all relevant parts such as crops grown, (2) the records are out of date by the time they are finally published and, except in khas mahals and certificate areas, never brought down to date for too long a period. I strongly advocate the United Provinces system. The records once prepared should be continuously maintained and for this purpose a cheap village agency should be organised.

**Q. 80.** The items enumerated in this question are each of them likely to increase the income of cultivators. But they are not a complete list and the all important thing is the method by which each of these things are done.

For effectively improving the income of agriculturists and thereby increasing the wealth of the country what is wanted is a great planned drive for the economic organisation and rebuilding of each village.

I should first of all organise bands of properly trained expert officials who will be capable of planning comprehensive schemes of village improvement by study of the conditions in the locality.

A body of such experts will be sent out to a unit consisting of one or more villages and start work there. I should call each such corps a centre.

They should make a complete plan for the cultivation of the entire available area in the vilage so as to increase substantially the value of the agricultural crop in the unit. This plan should include a distribution of the several crops in the land, carrying out schemes for irrigation, manuring and other methods of improving the yield of the crops.

Supposing that the estimated value of the crop after paying for all improvements is found by them to be say 50 per cent. above the yield from the lands, they should invite the agriculturists to agree to cultivate their lands according to this plan under the supervision and direction of the centre. This would be facilitated if a Government guarantee is given to each cultivator for a return equal to the value of his annual crops. Where the majority are agreeable compulsory powers may be given to be used against those who don't.

For financing this and other ventures which I shall presently mention there should be established a bank (a Government one at the outset) which will lend the necessary funds for carrying on agriculture on the hypothecation of the crops and on the condition that all marketable crops are sold through an agency approved by the bank.

The plan need not include collective cultivation at the start, nor need it involve the use of tractors and other very costly machinery to start with. But all such developments should be envisaged in the complete programme.

Every cultivator must undertake to work on the lands under the direction of the centre.

A plan should also be made for the utilisation of the surplus labour to the utmost advantage. This could be done by providing for work on industries appropriate to the locality. Each such industry should be organised on co-operative lines though a regular co-operative society may not be organised at the start.

I shall take as an illustration one industry which will probably be found to be suitable everywhere and also help agriculture by providing improved draft cattle and abundant good manure, viz., dairy farming.

Cows of improved breed should be purchased and sold to individual villagers, the finance being provided by the bank to the buyers on condition that the milk must be supplied to a central farm. The centre will maintain stud bulls and also include a veterinary expert who will supervise and instruct the villagers in the proper care of the cows.

The agricultural plan should also include a proper disposition of lands for the fodder, grazing and exercise of the cattle.

All the milk from the cows will be gathered and sold to the central farm financed by the bank. The central farm will give the sellers a letter of credit to the value of the milk supplied which will be accepted by the bank.

Except in the neighbourhood of big cities where sale of milk would be sufficiently profitable, the central farm will manufacture stable milk products like butter, ghee, chhana, and even more ambitious things like condensed milk and cheese in due course, for sale in distant cities and towns.

Similarly, other industries like poultry farming, spinning and weaving, jute spinning and weaving, coir industry, oil pressing, fruit preserving, manufacture of copra soap and hydrogenated oil in cocoanut-growing places and others should be organised where suitable on exactly similar lines.

The produce of agriculture as well as of the various industries should be marketed through collective agencies.

All these various units of agricultural and industrial activity will be financed by the bank which will thus have full control over the entire output of the village on the security of which it can finance each of these ventures. Too much will not be needed by the bank for most payments between the several units and the villagers will be made by mutual drawings on the bank which will thus be a clearing house for the village.

A bank so situated and having effective control over all the resources of the village could easily raise funds on its own securities, and if the whole country is covered with such banks there will be an organisation which would be able in the last resort to get finance from the Reserve Bank.

These are the main outlines of my scheme. I admit that it is not free from difficulties and that though its financial soundness can be established on paper, it may not be found so perfectly sound in practice.

My suggestion therefore is that the Government should proceed by experiments on a small scale. The experiment can be started in a dozen centres in different regions in the first two years. If it is found successful it may be extended to other areas according to a definite plan until the whole province is covered with such centres. If it proves successful it will not only increase the income of agriculturists and find employment for thousands of non-agriculturists as experts, organisers and staff, but change the whole face of the province.

For the success of the venture I have suggested that each centre should be manned by an adequate staff of Government servants at the start and run under strict supervision by the Government. But every centre must associate with itself an advisory body of villagers who will be gradually trained in the work until the entire system could be safely made over to a co-operative organisation of villagers.

**Q. 81.** Yes. I cannot give even an approximate idea of the extent of the surplus population, but that it is considerable is shown by the fact that agriculture does not occupy anything like the whole time of almost any cultivator.

**Q. 82.** To some extent the problem can be solved by assisted emigration from congested areas to areas in Bengal where there is a scarcity of agricultural labour and to Assam. But the effective and automatic solution would be found in the plan outlined in my answer to question 80.

**Q. 83 and 84.** My suggestion is incidentally referred to in my plan (*vide* question 80).

**Q. 85.** Co-operative societies have not touched even the fringe of agricultural credit. The reasons are many. To start with, their resources are hopelessly inadequate for the purpose. Then again rates of interest charged by them are excessive. What little good they might have done is further minimised by mal-administration in too numerous cases. Above all, these organisations are hardly co-operative societies in nature and spirit but as a rule merely a moneylending agency. I doubt if there are many societies which have succeeded in wiping out the debts of their members. The only ones I know of are under the

Gosaba Central Bank. But there the co-operative credit society is only one of the several inter-related co-operative organisations. Without such inter-related organisations which would enable the societies to control the entire resources of members these societies cannot be successful in any remarkable measure.

**Q. 86.** From reports so far as received by me the Debt Settlement Boards have, for one thing, dislocated the whole system of agricultural credit, and nothing has been done to construct a new system to replace the credit from mahajans. The results have often been disastrous to the cultivators. Its direct work, to scale down debts to manageable limits, in spite of many abuses, will probably succeed. But the failure of the Government to provide for a credit organisation to supplement the work of these Boards is going to affect the cultivators adversely.

**Q. 87.** I do not think the idea feasible. To make it workable these banks should become the sole creditors of the agriculturists, the crop should be hypothecated to the banks and sold through an agency affiliated to the banks. These conditions can only be created on the plan I have outlined above. In the absence of these circumstances the difficulties of realisation would be enormous and without regular payment, the banks could not meet their own creditors and the same of the bank could be arranged, such banks could succeed.

If side by side with these Agricultural Banks an adequate number of Land Mortgage Banks could be established to take over all existing debts of customers of the former, all outside loans are effectively forbidden and a plan for disposal of agricultural produce through agents of the Bank could be arranged, such Banks could succeed.

**Q. 89 and 90.** It is. In the long run it is also ruinous to the tenants.

If accurate and properly maintained records-of-rights are made I think a more summary procedure for realisation of rents, starting with execution instead of a plaint, could be provided, provided that the existing rents are scaled down where necessary on lines suggested by me. Such a summary process would not operate hardship to the tenant who has an economic holding. The trouble and harassment of the certificate procedure is chiefly due to the holding being uneconomic or the tenant being hopelessly in debt to others.

**Q. 91.** This is eminently desirable. At present the entire body of land laws covers over fifty statutory enactments and a great many of these are full of obsolete provisions, superfluous verbiage and clumsy circumlocutions. The embodiment of the whole body of these laws in a well drafted code will in any case be desirable, even if no reforms in the laws are made.

If the suggestions I have made before are accepted, of course, most of these laws would go to scrap heap and we should have a very simple and handy code indeed.

**Q. 93.** I am not in a position to judge of the economic effects. But it seems that barring the loss of some income to the landlords it will have no other effect. I fail to see what advantage it will give to the cultivating raiyat. If he sells out he will probably be able to get a slightly better price. But it is more likely that the advantage of the repeal of the salami will more generally go to the resourceful buyer, who is most often not a cultivator, or if a cultivator one who cultivates with hired labour, than to the needy seller who must needs sell.

The provision suspending enhancement of rent will give no appreciable benefit to the raiyat. For, after the series of years of depression the chances of the landlord getting an enhancement for increase in price of food crops within the next ten years were worse than problematic. Nor was there much chance of success in suits for enhancement on other grounds.

On the whole I think the chief value of this Act has been as a piece of legislative window dressing to show off to the agriculturists and enable its sponsors to pose as their friends. That the landlords have been done in the eye to some extent would be the trump card in this game of bluff.

**Reply by Sir Nalini Ranjan Chatterjee, ex-High Court Judge, Calcutta.**

**Q. 1.** The object of the Permanent Settlement and the *quid pro quo*, according to Regulation I of 1793, were substantially those which are mentioned in question 1. What led to the Permanent Settlement will be dealt with in replies to other questions.

No duties or obligations other than those mentioned in the question are stated in Regulation I of 1793.

The Permanent Settlement with the zamindars did not take away any existing rights from the tenants, nor add to them.

**Q. 2.** Under the Permanent Settlement the zamindar had the power to choose his tenants in this way.

Under Regulation VIII of 1793, the rents of istemrari (mokararidars) who had held land at a fixed rent for 12 years, and istemrardars not holding for so long a period but with whom the zamindar has contracted "not to lay any increase on them," could not be enhanced. They could not be turned out so long as they paid rent. But even such raiyat had no right of transfer. "On the whole I do not think the raiyats can claim any right, of alienating the lands, rented by them by sale or other mode of transfer, nor any right of holding them at a fixed rent except in the particular instances of khudkasht raiyats, who from prescription have a privilege of keeping possession so long as they pay the rent stipulated for by them." (Sir John Shore's Minute, Harington's Analysis, Volume III, p. 460).

That being so, even in the case of such raiyats, the zamindar could refuse to recognize a transferee, if considered undesirable, and in that manner could therefore choose the tenants. *A fortiori*, he had right to choose tenants in the event of transfer of ordinary khudkasht tenants and as for paikasht raiyats, they were merely tenants at will or tenants from year to year.

Under section 52 of the Regulation VIII of 1793, the zamindar "could, subject to the prescribed restrictions, let the remaining lands (i.e., other than those of the istemrardars and dependent talukdar dealt with in sections 49 and 51) in any manner he may think proper."

In the matter of unoccupied (waste and uncultivated) lands, the zamindar had certainly the right of choosing his own tenants, because no person could thrust himself as a tenant upon the zamindar. Sir Richard Garth observed as follows:—"They had almost as much freedom in that respect as landlords in England. It is certain that before the passing of the Rent Law in 1859, a landlord could and did, almost at pleasure rid himself of objectionable raiyats."

**Q. 3 and 6.** The landlords have certainly played an important part in the economic development of the province. Before the Permanent Settlement, the country was in a chaotic condition. In 1770 there was the great famine, as the result of which one-third of population of the province was swept away. There were also famines, though not so severe, between 1770 and 1793. The economic condition of the cultivators and of the whole country was deplorable, and the East India Company with all its resources could not realize the full amount of rents. It was at this time that the Permanent Settlement was made. For the first few years, most of the zamindars could do nothing as within that period about half the estates changed hands owing to default in the payment of revenue. Some of the biggest estates such as Birbhum and Bishenpore were ruined, and portions of some other big estates were sold away owing to the Sunset Law. The zamindars were interested then only in saving their estates, and some of them were saved by creating patni and other permanent tenures.

After some years, when things settled down and there was stability, the country flourished, and the original zamindars, the purchasers, and the derivative tenureholders brought the vast uncultivated waste and jungle lands into cultivation. The uncultivated lands were vast and the population was sparse. Tenants had, in the words of Francis, to be courted to undertake cultivation.

It is difficult after a century and a half to say to what extent the large increase in the area under cultivation is due to: (i) the increase in population, (ii) the enterprise of tenants, and (iii) the initiative and the pecuniary or other assistance of zamindars. But the vast and extensive tracts of waste and jungle lands (infested with wild beasts) could not be reclaimed by individual cultivators who were generally poor and without resources. At that distant time they had not the spirit nor capacity for organised action (they have not even now). Lands could not be cultivated unless protective embankments were made, irrigation tanks (and also tanks for drinking water for cultivators) excavated. Individual cultivators could not possibly do those things and they must have been done by landlords. In Western Bengal most of the irrigation tanks are khas tanks of landlords which unmistakably shows that they were excavated by the landlords.

But unless individual cultivators took settlement of particular plots and cultivated them, the lands could not have been brought under cultivation. Then again, unless there was increase in population there would not have been enough cultivators to cultivate the lands. All the three factors must therefore have contributed to the reclamation of and bringing the vast areas under cultivation which resulted in the prosperity of the province. But the cultivators were not in want of lands, and as stated above, they had to be "courted" to undertake cultivation. On the other hand, settlement was taken by zamindars

at one-eleventh of the assets including collection charges. It was essentially necessary for the zamindars to reclaim the lands and bring them under cultivation, so that they might increase their income and be in a position to pay the Government revenue punctually irrespective of drought, inundations, failure of crops and other calamities. In fact their very existence depended upon extension of cultivation, industry, and good management.

In the nature of things, therefore, it was for the zamindars with their resources to take the initiative and spend money for reclaiming the lands, and making them fit for cultivation. Not only were the landlords mainly instrumental in the matter of extension of cultivation, which of course they did in their own interest, but they also were very active and powerful factors in the development of prosperity. I have referred to excavation of tanks for irrigation and drinking water. The establishment of hats and bazars led to increase in prices of agricultural produce, the construction of roads by some zamindars gave facilities for better marketing and communications.

**Q. 4.** The question whether the zamindars were actual proprietors of the soil from before the Permanent Settlement, or they were mere collectors of revenue converted to proprietors by the Permanent Settlement, is a most controversial one, and the literature on that point containing diametrically opposite views is voluminous.

Before the Permanent Settlement was concluded, there were two schools of thought one represented by Mr. Grant (Sheristadar of the Board of Revenue). In his view the sovereign ruler in all parts of Hindoostan is the sole virtual proprietor of the soil, in right, and in fact the real acting landlord, that zamindars hitherto considered the rightful proprietors of the lands, were a fluctuating body of persons who were farmers and had no property in the soil, that they were actually no more than annual contracting farmers or receivers of the public rents, with stated allowances in the nature of a commission on the receipts, and a small estate or portion of their territorial jurisdictions set apart for constant family subsistence whether in or out of office, but never exceeding in the whole by an universal prescriptive law of the empire, ten per cent. on the mufassal charges.

The Board of Revenue in 1786 declared a zamindari to be a "conditional office," annually renewable and revocable on defalcations.

On the other hand Sir John Shore was of a contrary opinion. In his Minute, dated the 18th June 1789, he stated his conclusions as follows:—

"370. I consider the zamindars as the proprietors of the soil, to the property of which they succeed by right of inheritance, according to the laws of their own religion; and that the sovereign authority cannot justly exercise the power of depriving them of the succession, nor

of altering it, when there are legal heirs. The privilege of disposing of the land, by sale or mortgage, is derived from this fundamental right, AND WAS EXERCISED BY THE ZEMINDARS BEFORE WE ACQUIRED THE DEWANI."

"371. The origin of the proprietary and hereditary rights of the zamindars is uncertain; conjecture must supply what history does not mention; they probably existed before the Muhammadan conquest, and, without any formal acknowledgment, have acquired stability by prescription. I do not admit the sanad, which the zamindars sometimes receive, to be the foundation of their tenure; which though it may acquire confirmation from it, exists independent of this deed. The origin of the possession of some zamindaris may be traced to a grant, but the inheritance goes on, without it."

It will not be profitable to enquire into the right to land in the early Hindu period, I shall only refer to it. A passage is often quoted from Manu, Chapter IX, sloke 44. "Sages pronounce cultivated land to be the property of him who cut away the wood or who cleared and tilled it." But that does not show what "property" was acquired thereby, and whether he had anything more than a right to cultivate and appropriate the produce subject to payment of the king's share of the produce. Then it appears that the king's share was generally one-sixth (though it varied from one-fourth to one-tenth).

It is said that there were no intermediate interests between the King and the cultivator, though there were a number of officers of the King; the village lord, the lord of ten villages, 100 villages and so on, one above the other, who were remunerated by produce of lands or by assignments of lands.

It is difficult to trace the history of intermediate interests in land from pre-historic times, or to enquire whether the zamindars of later times originated from these officers. That would be mere speculation, nor would it be profitable to refer to the system which prevailed in other provinces of India, or to the village communities, as the latter ceased to exist in Bengal thousands of years ago.

It may be pointed out, however, that certain passages from *Sukraniti* though of a much later period than Manu, but much anterior to Muhammadan conquests, show that there were three classes of persons interested in land, viz., the king, the owner and the cultivator.

Before the Muhammadan invasion, during the time when the Pal and Sen dynasties were kings of Bengal, there were a number of rajas, some big, others small, and some of the zamindars originated with them as their descendants existed during the Moghul period and also subsequently.

We come to firmer ground during the Moghul period. During the time of Akbar the zamindars of Bengal were "numerous, rich and powerful." Sir John Shore says that they were not of Akbar's creation and probably existed before him. But in order to be "numerous, rich and powerful" they must have existed from a very long time (if not centuries) before Akbar.

The zamindars, if they did not originally possess, acquired in the course of time a property in the soil and the rights annexed thereto, of disposing it by sale, gift and mortgage, subject, however, under any mode of alienation to the sovereign claims for revenue. Some of the zamindars exercised semi-sovereign powers.

The Moghuls did not disturb the arrangement as it existed before they came.

The zamindari was described by the Board of Revenue as a "Conditional Office." Deleting the word "office" for the moment, because it is begging the very question at issue, let us see what the facts were. It was "conditional" in one sense, viz., conditional on the payment of revenue. But in one sense it is conditional also under the Permanent Settlement as the estate is liable to be sold for arrears of revenue, for each of the four quarterly kists. Then it is said that it was "annually renewable and revocable on defalcation," or in the words of Mr. Grant the zamindars were "annual contracting farmers."

What used to be done annually, however, appears from the following remarks of Mr. Rouse (Harington's Analysis, Volume III, pp. 367-368):—

"It appears, upon a reference to all the correspondence of the times and is universally known, that when the Dewani of the three provinces was ceded to us, the country was distributed amongst the zamindars and talukdars, who paid a stipulated revenue by twelve instalments to the sovereign power, or its delegates. They assembled at the capital in the beginning of every Bengali year (commencing in April) in order to complete their final payments, and make up their annual accounts; to settle the discount to be charged upon their several remittances in various coins for the purpose of reducing them to one standard, or adjust their concerns with their bankers; to petition for remissions on account of storms, drought, inundation, disturbances, and such like, to make their representations of the State and occurrences of their districts; after all which, they entered upon the collections of the new year; of which, however, they were not permitted to begin receiving the rents from their own farmers, till they had completely closed the accounts of the preceding year; so that they might not encroach upon the rents to make up the deficiencies of the past. In many instances

<sup>1</sup>Shore's Minutes of 2nd April 1788 and 18th June 1789.

the zamindars were left unmolested in their several districts, and free from all check or interference. But when they were remiss in their payments, officers of Government were deputed, under various titles, whose duty it was to prevent any misapplication of the money collected by the zamindars, and his agents dispersed over every part of the country. For with them only rested the whole business of letting the lands; keeping the subsidiary accounts, and collecting the rents from the villagers and they were, in all ordinary matters, independent of the interference of the superior Government."

The revenue was not fixed in perpetuity as under the Permanent Settlement. And if remissions had to be obtained on account of storms, drought, inundations, disturbances and such like, accounts had necessarily to be made up for paying up the arrears. They were not allowed to realise rents from tenants until their accounts were settled and the arrears were paid up or arrangements made for their payment because it would be difficult to realize revenue if there were large accumulation of arrears. Those who could not or would not pay were deprived of the management, and their estates were made over to those who agreed to pay, or the collections were made by the officers of the Viceroys, the dispossessed zamindars being allowed malikana.

But besides the stipulated revenue, there were sometimes additional impositions on the revenue, as well as impositions of cesses (such as Subedari) and when the zamindars could not pay, the zamindar was deprived of the management of his estate, and collections made by officers of the rulers. In the case of disqualified proprietors the management was taken over (it is done even now). The revenue appears to have been realized in that manner.

During the time of Jaffar Khan (Murshed Kuli Khan) extortionate demands were made. The defaulting zamindars were imprisoned and the most revolting cruelties were practised upon those who failed to comply with his demands in order to compel them to do so. Collections of rents were made from cultivators direct by State Officials (Amils and Sezawals) and the condition of the zamindar became precarious and pitiable. But even Jaffar Khan allowed malikana to the dispossessed zamindars which he would not have done had not the zamindars been maliks. "The malikana or right of proprietorship furnishes the subsistence of a zamindar. When his lands were framed out or held khas, he received his malikana from the Amil or farmer"—see Roy Royan's answer to question 15th (Harington's Analysis, Volume III, p. 344). Even a person holding an Altamegha grant from the Emperor had to pay malikana to the zamindar (Harington, Volume III, p. 244). After the death of Jaffar Khan the zamindars regained their former position.

If one confines his attention only to the state of affairs to any particular period (Jaffar Khan's time), he may be tempted to get the impression about the position of the zamindars unfavourable to them.

As stated however by Sir John Shore in his Minute, dated the 2nd April 1788—

"The general question may with propriety be divided into two parts: of right, and policy. If the former can be clearly ascertained, it will probably tend to elucidate the latter which, at all events, deserves a separate consideration. In a discussion of this kind, some principles should be established at the outset for deciding the points in issue. But here a material difficulty occurs. The constitution of the Moghul Empire, despotic in its principle, arbitrary and irregular in its practice, renders it sometimes almost impossible to discriminate between power and principle; fact and right; and if custom be appealed to, precedents in violation of it are produced. In tracing such a system where even natural rights are often sacrificed to power, we must carefully observe what, under successive administration has been left to the people; and explore those usages which have subsisted for the greatest length of time with the fewest variations and infringements. We must hear what the subjects of the State claim for themselves; and try these claims by the result of the investigation prescribed; and by the standard of reason, policy and natural justice. In opposition to this, it has been asserted that the sovereign alone, in a despotic state, is competent to decide the question about zamindari rights because it goes to ascertain the limits of his power, in defining the rights of his subjects; that the will of the Company, as possessing the rights of the emperor, is absolute, and that it rests with them to make, explain, and execute the laws. If this reasoning be just, all discussion ought indeed to cease; for it reduces the question to this simple proposition, that the Company, having despotic power, are entitled to exercise it as they please. Rights are incompatible with these principles."

But apart from that, if a zamindari was heritable and transferable, it could not be a "conditional office," nor "annually renewable," nor could the zamindars be said to be "annual contracting farmers," and this brings us to the question whether a zamindari was heritable and transferable or not. There was no difference of opinion between Mr. Hastings and Mr. Francis, respecting the hereditary title of the zamindar. In the plan for a future settlement of the revenues recorded by the Governor-General, Mr. Hastings, and Mr. Barwell, on the 22nd April 1775, it is observed that "both by the Mussalman and the Hindu Laws, inheritance should be divided amongst the sons in equal proportions; yet it has been established by custom, that the large zamindaris shall not be divided; but be possessed entirely by the eldest son, who is

to support his younger brothers. On the contrary, it is usual for the small zamindaris to be divided amongst all the sons, but in many parts of the country the custom prevails, that the eldest should have something more than the others." In the plan of settlement recorded by Mr. Francis on 22nd January 1776, it is also expressly asserted, that "the land is the hereditary property of the zamindar. He holds it by the law of the country, on the tenure of paying a certain contribution to Government." And the following note is added to Mr. Francis' printed Minute of the above date. "The inheritable quality of the lands is alone sufficient to prove, that they are the property of the zamindars, talukdars, to whom they have descended by a long course of inheritance. The right of the sovereign is founded on conquest; by which he succeeds only to the State of the conquered prince; unless in the first instance, he resolves to appropriate all private property, by an act of power, in virtue of his conquest. So barbarous an idea is equally inconsistent with the manners and policy of the British nation. When the Moghuls conquered Bengal, there is no mention in any historical account, that they dispossessed the zamindars of their lands; though it is frequently observed, that where they voluntarily came in, and submitted to the new Government, they were received with marks of honour; and that means were used to gain and secure their attachment. In the Roy Royan's answer to question 47, "Is the property of the soil vested in the king, the zamindar or the raiyat?" he stated, "The sovereign is the proprietor as well of the revenue as of the country; and as the revenue arises from the land, he is so far the proprietor of the soil also. In consequence of paying the revenue, of submitting to the authority of the sovereign, and of succeeding to the inheritance of a zamindari by lineal descent, with power of alienation by gift or sale, a zamindar becomes the proprietor of the lands of his own zamindari. A raiyat being a tenant holding under a patta, and possessing no authority to sell or give away has consequently no property in the soil." (Harington, Volume III, p. 354.)

The Court of Directors in their letter, dated the 20th August 1788 (paragraphs 28 to 32) said, "We have perused with attention Mr. Grant's discussion of the rights of zamindars, but we should have thought our Supreme Government very blame-worthy, if upon his suggestion or upon being ever so much urged to adopt that line of conduct by the committee of revenue, they had ventured to issue any public declaration which would have abrogated the claim the zamindars have been supposed to enjoy to an hereditary possession, and thereby precipitately committed the national faith and honour upon a subject of so much magnitude. Neither can we observe without astonishment, the levity with which this most important consideration has been treated in the discussions of the committee. The common sanad or patent of a zamindar does not certainly, in terms, confer an hereditary tenure;

and we have never seen it ascertained, whether in ancient times the sanads were granted in the same form and tenor, for all the classes of zamindars described by the Nawab Mohammed Reza Khan, in his remarks delivered to our President and Council in September 1773, but it seems to be admitted, on all hands, that hereditary descent and succession (and in many cases mortgage and alienation) have long been usual in Bengal and Bihar; and that notwithstanding the various revolutions at Delhi, and in the provinces, this rule has rarely been interrupted but for acts of atrocity, which might incur forfeiture; default of revenue; or failure of heirs. This doctrine is very much confirmed, instead of weakened, by the account of the four principal zamindaris prepared by the Dewan, and delivered in by Mr. Cowper. Moreover, we believe it is a fact, that many of the present zamindars are the lineal descendants of those persons, who possessed the lands before and under the conquest of Bengal by the Emperor Akbar, about two centuries ago. In like manner it is certain that the idea of an hereditary tenure has been sanctioned by repeated discussions of the British Parliament. It has been recognised also by the undeviating practice of our Governments in Bengal and of all the Dewani Courts since our possession of the country; and that not as mere acts of grace, or personal partiality, but as the dues of justice, yielded to those having a fair right to demand them. With all this evidence of fact before us in favour of the zamindars we should not hold ourselves warranted in so monstrous an exertion of the powers vested in us by the legislature, as that of nullifying, upon a mere theoretic opinion, all the supposed property of an extensive territory; and which, even if it were decidedly legal, and politic, would not probably be effected without danger of revolt, or general injury to the country. As this great question has been agitated by our servants in Bengal, we wish to examine it without prepossession; and conceiving it to be our duty to declare these sentiments to you, we direct that your conduct may be made conformable to them. So far as to the right, or usage, of inheritance."

But although the zamindars succeeded according to the common course of inheritance, agreeably to their own law, some form declaratory of the succession of the new incumbent was necessary for the information of the officers of the State and raiyats, as well as for the security of the new zamindar, whose name was upon his accession enrolled in the public registers.

It is to be observed that in the case of succession by inheritance, the proprietor even now has to register his name under the Bengal Land Registration Act (VII of 1876, section 42), and no person is bound to pay rent to a proprietor unless his name is so registered (section 78).

The principal zamindars who enjoyed extensive jurisdiction and were admitted into the presence of their Sovereign, or the Viceroy, petitioned for and obtained sanads not only as confirmation of their rights, but as an honourable distinction, and these they paid for, while the inferior zamindars were contented with less formal and expensive acknowledgments of their rights. Sir John Shore therefore was right in holding that the sanad did not create rights, but merely confirmed them.

If a zamindari was a hereditary tenure as held by Warren Hastings, Francis, Sir John Shore, Mr. Rouse, and the Court of Directors, what remains of the view taken by the Board of Revenue or by Mr. Grant, that it was a "conditional office" or that it was "annually renewable and revocable at pleasure"?

"The origin of all zamindars with whom the Permanent Settlement was concluded was not the same. Some were descended from ancient Rajas or Chiefs previous to the Moghul conquest, others the great zamindars who came into existence during the Moghul Government. Some of these were *de facto* rulers in their own estates or territories subject to a tribute or land tax to the representative of the sovereign. There were others again who towards the disruption of the Moghul Empire became farmers of revenue, who or whose descendants came to occupy the position of a zamindar. Lastly the persons whose families had held office of collecting revenue during one, two or three generations and established a kind of prescriptive right.

This difference in the origin of the zamindars has led to the divergence of opinion as to whether the zamindars were proprietors or were collectors of revenue converted into proprietors by the Permanent Settlement."

Then again, there has been much criticism on the ground that the position of a zamindar is not that of a "proprietor", in the English sense of the term. It does not matter however whether the zamindar had a "fee simple" interest, as his tenure was of a peculiar description. But whatever it was, it would be a mistake to say, that zamindars were mere collectors of revenue, converted into proprietors under the Permanent Settlement.

In conclusion, I shall refer to certain outstanding facts—

(a) The existence of numerous rich and powerful zamindars in Bengal at the time of Akbar and before his time, already referred to above.

(b) The existence of a number of Rajas big and small before the Moghul period.

(c) The custom of succession by primogeniture in the case of the most extensive zamindaris under "native administrations" referred to

in the Preamble to Regulations XI of 1799, which undoubtedly prove the antiquity of such zamindaris.

(d) The grant of lands made by zamindars prior to the 12th August 1765, the date of accession to the Dewani, which were declared to be valid by Regulation XIX of 1793, provided the grantee actually and *bona fide* obtained possession of the land granted, prior to that date, showing the existence of zamindars who exercised such rights as proprietors of land.

(e) The fact that Rani Bhabani, the biggest zamindar of East Bengal of the time, a female, Raja Krishna Chandra of Nadia and the Maharaja of Burdwan who made extensive lakheraj grants show that they were proprietors of the soil.

(f) The Emperor Aurangzeb purchased land from a zamindar for a mosque. He was the lord and master of the country and could easily take the land at his will and pleasure, but in order to give a proof of his moderation and morality purchased certain parganas (*see* Harington, Volume III, p. 528). The Roy Royan in his answer to question 29, said "A zamindar is a payer of revenue. By ancient usage the revenue belongs to the emperor and soil to the zamindar. The emperors keeping in view the practice of former times considered the taking of land without paying for it as an act of oppression."

This purchase of land from a zamindar shows that zamindars had proprietary right.

(g) When Casim Aly Khan ceded Burdwan and other districts to the East India Company, he made over the rents of them only, and in defining the powers which the English were to exercise over Burdwan, called the zamindari of Tilak Chand, he directed that they shall keep the zamindar and tenants in their places. (Harington, Volume III, p. 310).

(h) The permission granted by the Emperor Aurangzeb to the English to purchase Cuddalore and other towns, shows that the zamindars had a right of property, and the power of disposing of it. (Harington's Analysis, Volume III, p. 308).

(i) The firman from the Emperor Furokyer in 1771 granted at Delhi on the application of the agents of the English Company the terms whereof run thus:—"The Company's factory is established in Calcutta, and the sum of Rs. 1,193-6 as. is annually paid on account of the rents of the talukdari of Calcutta, Sutanati and Gobindapur formerly procured from the zamindars, be pleased to grant thirty-eight villages more situated near the former, at the annual rent of Rs. 821-8 as. which shall be regularly discharged. The orders for the villages previously purchased are confirmed as before, and we have bestowed the talukdari

of the additional thirty-eight villages, but *let them purchase them of the proprietors.*" (Harington, Volume III, pp. 308-309.)

There could be no better proof of the zamindars having proprietary rights, when the English themselves purchased Calcutta, Gobindapur and Sutanati and were directed to purchase the additional 38 villages from the zamindars.

**Q. 5 & 10.** The annulment of the Permanent Settlement would undoubtedly be a breach of the solemn pledge given by the East India Company to the zamindars. No pledge could be more solemn than that contained in the Permanent Settlement. On the faith of that pledge the zamindars entered into the settlement with such a low margin of profits, viz., one-eleventh of the assets and agreed to pay revenue on the most stringent terms. It was on the faith of that pledge that when zamindaris or permanent tenures were sold by private sale or under the revenue or rent laws, persons purchased them for millions and millions of rupees. It was because of the Permanent Settlements that the one-third of the entire province which was full of jungles and waste, and uncultivated that was reclaimed, and Bengal became the most prosperous province in India.

It is said that the tenants were no parties to the pledge. The tenants, however, were not interested in the amount of revenue for which the settlement was made, which was a matter between the State and the zamindars. But the Permanent Settlement was made, and the revenue was fixed in perpetuity, not in a fit of generosity, nor out of a disregard of the rights of the State or its subjects. The records show with what care and deliberation the matter was dealt with by eminent statesmen, after a most careful consideration of the views of persons who held opposite views as to the wisdom of the measure. Apart from the fact that the Permanent Settlement was the only means of saving the then existing situation, the State was fully alive to the interests of the tenants, and provisions were made in the Regulations themselves for safeguarding those interests.

In Article VII of Regulation I of 1793 it was declared "It being the duty of the ruling power to protect all classes of people and more particularly those who from their situation are most helpless, the Governor-General in Council will whenever he may deem it proper, enact such regulations as he may think necessary for the protection and welfare of dependant talukdars, raiyats and other cultivators of the soil." Rules were laid down in other Regulations accordingly, and their interests have also been protected by subsequent tenancy legislation up till now.

It would be a mistake to say that the Permanent Settlement permanently crippled the financial resources of the country. The amount of

revenue derived directly from land is not the only criterion for determining the financial resources of a country. Apart from the urgent necessity of the State for concluding the Permanent Settlement, had the raiyatwari system been adopted as was done in some other provinces, the revenue from the then cultivated lands might have been higher, but the one-third of the province which lay waste and jungle, could not have been reclaimed within the time it was done, and the prosperity of the province could not have been brought about.

If fixing the amount of land revenue in perpetuity is crippling the financial resources of the country, the fixing of rent in perpetuity of all or any class of raiyats, which some of the questions suggest was contemplated by the framers of the Settlement, would on the same reasoning be said to be crippling the resources. It is true that raiyats are instrumental in the production of wealth, but so are the landlords instrumental in reclaiming and bringing lands into cultivation, thereby making it possible for increase of national wealth. We are considering the question of crippling the revenue of the State *by fixing the demand on the land* and if that was bad in the case of zamindars it would be bad in the case of raiyats also, and the landless labourers and the general public may as well complain that they were no parties to the arrangement, that the rents of raiyats should not have been fixed in perpetuity, and that the raiyatwari system would have brought in much larger amounts to the coffers of the State.

As stated by Romesh Dutt in his "Economic History of British India" page 94:—It (the Permanent Settlement) is the one act of the British nation within the century and a half of their rule in India which has most effectually safeguarded the economic welfare of the people. It is an act which is in consonance with the modern policy of civilised nations to permit the people to profit by their own industries, instead of paralysing their industries by an uncertain and increasing State demand. Agriculture has largely extended in Bengal within the last hundred years, and the land-tax of Bengal, which was fixed in 1793 at 90 per cent. of the rental, now bears a proportion of about 28 per cent. to the rental of landlords; and new taxes amounting to  $6\frac{1}{4}$  per cent. on the rental have been added for roads and public works.

"Since 1793 there has never been a famine in permanently settled Bengal which has caused any serious loss of life. In other parts of India, where the land-tax is still uncertain and excessive, it takes away all motives for agricultural improvements and prevents saving, and famines have been attended with the deaths of hundreds of thousands, and sometimes of millions. If the prosperity and happiness of a nation be the criterion of wisdom and success, Lord Cornwallis' Permanent Settlement of 1793 is the wisest and most successful measure which the British nation has ever adopted in India."

At page 132 he observed.....“Lord Cornwallis respected an ancient institution, and has thus preserved in Bengal a large, prosperous, and contented middle class. Lord Wellesley’s policy denuded Madras of a similar class and the loss has not been repaired after a century of British rule. Madras has no strong, influential, prosperous middle class, forming a natural link between the cultivators and an alien Government.”

The result of the Permanent Settlement shows that it was in the interests of the country economically and for the greatest good not only of the largest number but of all classes of subjects. It would be erroneous to think that it led to a revenue system resulting in advantage of the landlords at the expense of the tenants, and not to the province as a whole. The advantage of a particular class, viz., the landlords at the expense of the tenants cannot possibly conduce to the prosperity of a country. It was owing to the Permanent Settlement that trade and commerce of the province increased. It led to the large increase of revenue in other directions such as customs duty, income-tax and stamp duty, etc. Consumption of imported goods such as cotton manufactures, and hardware, etc., was greater in Bengal and which shows a higher purchasing power in Bengal, and surely the consumption was not confined to the zamindars or tenureholders. The customs duty, income-tax and stamp duty which were indirectly due to the Permanent Settlement, indicate wealth and prosperity not of a particular class, viz., the landlords, but of the whole province. Even labourers and coolies share in the general prosperity as they get higher wages, and it is idle to contend that the advantages arising out of the Permanent Settlement are confined to the landlords alone.

**Q. 7.** As stated in answer to questions 3 and 6, both landlords and tenants contributed to the reclamation of waste and jungle lands and bringing them under cultivation though it is not possible at this distance of time to say to what extent it was due to each of them.

Some people seem to think that the zamindar had merely to point out the land to the would-be tenant, and the latter cleared the land and made it fit for cultivation, as may be done nowadays when there is competition for lands. But there were then vast tracts of jungles infested with wild beasts, and they could not have been reclaimed by individual cultivators. Besides merely cutting down the jungles would not make the land fit for cultivation. It was necessary to have embankments or provision for irrigation facilities (as the case may be), and these could not have been done by poor cultivators. It is to be borne in mind that cultivators were not in want of lands. There being competition for tenants, cultivators would naturally take settlement of lands from a zamindar where they had lesser amount of trouble and labour. It being essentially necessary for the landlords to extend cultivation for

their very existence and to increase their small margin of profits. It was natural for them to play the greater part in the matter of reclamation of lands and provide facilities for cultivation, thought it was the cultivators who cultivated the lands.

It is also difficult to say how much the increase is due to the good management of the zamindars, but it must have been good, because without good management there could not have been a rise in the income.

The rent roll has also been increased by enhancement of rent, but to what extent it is impossible to say at this distance of time specially having regard to the fact that the rise in the rent roll must have been mainly due to the reclamation and cultivation of waste and jungle lands of one-third of the whole province.

**Q. 8.** It is difficult to say that all the zamindars have conducted themselves with moderation towards their tenants and have secured to them the same equity and generous treatment as they were supposed to have secured from Government. The difficulty arises from generalizing on the point. There was a period when most of the zamindars were not in a position to do anything, and when their exertions were solely directed to saying their estates. Then there were good zamindars and bad zamindars; and some others again who were indifferent. Some of the zamindars were uneducated, lazy, and given up to luxury and enjoyment and did not care for the welfare of tenants. But there were others who were just the opposite. The author of the "Zamindari Settlements of Bengal" (Volume I, Introduction, p. X) who is a severe critic of the zamindari system says:—

"The Administration Reports contain acknowledgments of the excellent administration of their estates by several zamindars; among these are names of conspicuous benefactors of their districts and of their kind, whose good deeds are an example for even England's nobility and even the author's acquaintance with but a few zamindars has enabled him to recognize esteemable characters among them."

Before the rate of enhancement was regulated by tenancy legislation, some zamindars must have realised enhanced rents at a high rate, and abwabs.

When estates or tenures were sold, the purchasers in some cases enhanced rents of the raiyats, sometimes unfairly, but the entire body of the zamindars and tenureholders cannot be condemned as extortionate or oppressive on that account. Enhancement of rent did not take place under the Permanent Settlement alone. Rents were enhanced and considerably more in provinces where there was no Permanent Settlement. On the other hand, numerous raiyats have been recorded in

the Settlement record-of-rights as mokarari raiyats on the presumption under section 50 (1) of the Bengal Tenancy Act. That shows that rents of numerous raiyats had not been enhanced by many zamindars or tenureholders. I do not mean to suggest that enhancement of rent is improper, on the contrary, I am of opinion that enhancement of rent follows from the character of rent. But the fact that there was no enhancement of rents since the Permanent Settlement as evidenced by the entry of mokarari rent of numerous raiyats in the record-of-rights based upon the provisions of section 50, Bengal Tenancy Act shows that there was no enhancement of rent of numerous raiyats in many estates and tenures. It cannot be said therefore that all the zamindars or tenureholders were extortionate or oppressive.

There was realisations of abwabs but it is being gradually reduced specially after the amending Act of 1938. If necessary, more stringent methods can be adopted for abolition of abwabs.

With regard to the "same equity and generous treatment" it is to be observed that the zamindars having obtained settlement at a very low margin of profits and on very stringent terms, it was not possible for them to secure to the tenants the same generous treatment as the latter did not accept settlement on such low margin of profits nor on such stringent terms as the zamindars did.

**Q. 9.** The first part of the question has been dealt with under questions 3, 6 and 7.

The question of "absenteeism" has to be considered with reference to the landlord immediately under whom the particular tenant holds. For instance, where a zamindari is let out in patni, it is the patnidar who is practically the zamindar in relation to the tenants, and it is immaterial whether the zamindar lives within the estates or is an absentee.

Most of the zamindars, and specially the tenureholders and others belonging to the middle class do not live in towns, but a zamindar having a very large number of mouzas specially where they are situated in several districts, must necessarily be an "absentee," unless he can tour round all the mouzas in his estate. The percentage however of zamindars living in towns is not large. All zamindars cannot afford to live in towns, but those who can, have to keep a residence in towns for education of their children and for medical treatment, and nowadays in some cases marriages of sons and daughters have to be celebrated in towns. Some of them have to keep away from villages owing to unhealthiness in villages. But some big landlords live in towns for enjoyment of better amenities of city life, though their percentage is small.

There is no doubt that if landlords reside in villages, they must provide for good drinking water, good food, medical help, and educational institutions and other amenities for themselves and their families and the tenants would enjoy such benefits, and the landlords being in close touch with tenants the latter would participate in social functions, and there would be better understanding between them.

**Q. 11.** It is stated that 80 per cent. of the income of land is appropriated by the zamindar, and that the continuance of the Permanent Settlement involves a loss to the State of about 76 per cent. of the raiyati assets estimated at 12 crores (question 13). A 75 per cent. of the raiyati assets, viz., nine crores is therefore intercepted by the zamindars and derivative tenureholders.

The expression "unearned increment" is frequently used in this connection. Perhaps it may be applied to the increase of the raiyati assets existing at the time of the Permanent Settlement, assuming that enhancement of rent is unearned increment. But the purchasing power of the rupee was enormously higher at the time of the Permanent Settlement than it is now, or even when the tenancy laws (Act X of 1859 or Act VIII of 1885) were passed. Enhancement of rent on the ground of a rise in the price of staple food crops (which is dealt with in answer to question 61) was practically the only ground of enhancement under the tenancy laws (as it was very difficult to obtain enhancement on the ground that the rent was below the prevailing rate or on any other ground) cannot be called "unearned increment". But apart from that, the zamindars were entitled under the Permanent Settlement to the income of lands which lay jungly-waste and uncultivated at the time, constituting one-third of the lands of the entire province and which were reclaimed and made fit for cultivation mainly by their initiative and efforts (see this point dealt with in answer to question 3 and 6 above). The zamindars must have been led to accept the settlement on the most stringent terms at one-eleventh of the raiyati assets of the time, only because they were given exclusively the income from the lands of one-third of the whole of the province, and if by their exertions and good management the income has increased to the large extent after a century and a half, the State should not complain that it is a loser now.

Tenureholders between the zamindars and the raiyats were not unknown before the Permanent Settlement but the Permanent Settlement gave an impetus to subinfeudation by giving permanency of tenure and fixity of rent. The Permanent Settlement Regulations themselves, and subsequent tenancy legislation, encouraged such subinfeudation. The zamindars settled their zamindaris or portions thereof in permanent tenures for reasons similar to those for which the East India Company made the Permanent Settlement with the

zamindars. The permanent tenureholders have to pay rent to the zamindar irrespective of drought, inundation, failure of crops or other calamities, and on default their tenures are liable to sale (and in the case of patni tenures, summarily). The zamindars are therefore relieved of the trouble of management and uncertainty of collection of rents and are enabled to make punctual payment of the Government revenue. In fact one of the biggest zamindaris (and some other zamindaris) were saved by the creation of patni tenures. Subinfeudation is not therefore necessarily an evil. A large portion of the very large middle class who form the backbone of rural Bengal belong to the class of tenurholders. The evil of subinfeudation is due to the creation of under-raiyats by the raiyats themselves at a rack rent in cash, encouraged by tenancy legislation.

The Permanent Settlement has led to enhancement of raiyati rents. But rent is by its very nature variable. Enhancement of rent was not unknown before the Permanent Settlement though it used generally to be regulated by the pargana rate. The Permanent Settlement recognized it, and so long as rent was not enhanced beyond the pargana rate, and not beyond the "prevailing rate" under the tenancy laws, it was not unfair.

It is said that the Permanent Settlement has created a system of overlordship over the actual cultivators of the soil which is harassing and oppressive. The relation of landlord and tenant implies some sort of overlordship in this country. That however is not an unmixed evil; it has compensating advantages. The raiyats are generally poor, illiterate, and without resources, and the zamindars and tenureholders (the middle class) are well-to-do and intelligent, and the raiyats have to look to those zamindars specially the petty owners, the tenureholders and the middle class who belong to this class, at times of distress and for guidance in matters of rural welfare. The social contact of the raiyats with such persons who live in villages did them good. Even now, notwithstanding the efforts of agitators, the relations in many places are good though not so much as they were before.

**Q. 12.** For reasons stated in answer to question 11. I do not advocate the abolition of the Permanent Settlement on any grounds mentioned in that question.

**Q. 13.** (i) I have already expressed my opinion under question 12 that the Permanent Settlement should not be abolished. Even if there is a "loss" to the State to the extent of about 75 per cent. of the raiyati assets estimated at Rs. 12 crores in the revenue from land, it is compensated by other revenues which indirectly arise from the prosperity of the country owing to the Permanent Settlement.

In considering the question of income of the present raiyati assets as compared with those existing at the Permanent Settlement, one should not lose sight of the fact that the purchasing power of a rupee in 1793 was several times more than that at the present day.

The abolition of the zamindari system means of course not only abolition of zamindars, but of the whole body of tenureholders, under tenureholders, and (if by "actual cultivator" is meant only persons who cultivate lands with their own hands) the whole body of cultivators who cultivate with hired labour paying them a share of the produce as their remuneration.

(ii) The cancellation of the Permanent Settlement and substitution of the system of temporary settlement in its place would no doubt bring increased land revenue to the State, but the revenue of the State would tend to decline in other directions. Temporary settlement will undoubtedly be uneconomic, as cultivators will not have the incentive for exertion, because the larger the produce by their exertion, the higher rent they would have to pay at the re-assessment, unless the idea is that the zamindars and tenureholders should be removed and the rents of the raiyats should be fixed for ever, so that they would be in the same position as zamindars and tenureholders without paying any additional rent as in the raiyatwari system.

(iii) The question of the imposition of a tax on agricultural income.  
A.—Sec. 4, Cl. (3), Sub-Cl. (VIII) of the Indian Income-Tax Act exempts agricultural income from its operation. Agricultural income has been defined in section 2, clause 1 of the said Act, and includes (a) rent or revenue; (b) produce or its price.

Generally speaking (a) class income is enjoyed by the zamindars and other tenureholders, etc., and in return for this enjoyment assured to them by the Permanent Settlement, the zamindars pay revenue for their respective estates (and derivative tenureholders to the zamindar). Fixity of revenue has been guaranteed and the State demand has been limited to the revenue fixed which is unalterable for ever leaving the balance to the zamindars (and persons deriving title from them).

Class (b) income (produced or its price) is enjoyed by cultivators and that also is exempted from income-tax under the Income-Tax Act.

So long as the Income-Tax Act stands, agricultural income cannot be made liable to income-tax. The Income-Tax Act, however, can be amended by the legislature. But then the question arises whether having regard to the terms of the Permanent Settlement Regulations agricultural income can be taxed. On the one hand it may be contended that the income derived from land has been subjected to a fixed Government revenue by the Permanent Settlement which cannot be altered by the imposition of any demand upon agricultural income under any other denomination. On the other hand it may be said that

the Permanent Settlement merely made the land revenue fixed and unalterable, it did not preclude the imposition of any tax on the holders of land along with other subjects of the State, if the necessities of the State require it. The question is not free from difficulty. There are two decisions of High Courts which have held that agricultural income cannot be made liable to income-tax having regard to the Permanent Settlement. The Judicial Committee has however held that the Permanent Settlement Regulations do not exempt income from zamindari from liability to any future general scheme of property taxation. That being so, income from zamindari may not be exempted from income-tax.

It appears that income-tax was imposed once during 1860-65 and again during 1869-73 on agricultural income. "The exemption they (agricultural incomes) enjoyed from 1873 to 1878 was in common with all other incomes, and that the taxation scheme of 1878, which was part of the famine insurance policy of Lord Lytton's Government combined taxation of the income of the trader with a cess on the land." (Indian Taxation Enquiry Committee's Report.)

"In the first instance, agricultural incomes were assessed to income-tax, and that when the income-tax was replaced by a license tax, they were assessed to a corresponding burden in the shape of a cess. It was the continuing existence of this corresponding burden that was responsible for their exemption in the Act of 1886." (Indian Taxation Enquiry Committee's Report.)

It appears that the owners of land had to pay cesses while all other sections of the public had to pay income-tax. That being so, if land is made liable to income-tax there will be burden (a) of revenue under the Permanent Settlement, (b) of road and public works cess, and (c) of income-tax which does not seem to be justifiable, unless other sections of the public are also made liable to cesses.

**Q. 14.** I do not advocate the abolition or cancellation of the Permanent Settlement. If, however, it is decided upon, compensation should certainly be given to the zamindars and all other landholders above the cultivators. They have an indefeasible claim to compensation and section 299 (3) of the Government of India Act, 1935, is a bar to the acquisition of any landed property without compensation. Zamindars holding from Permanent Settlement must have spent millions and millions of rupees for reclaiming and bringing under cultivation the waste and uncultivated land, and even for payment of revenue for preservation of their estates (taken settlement of at one-eleventh of the assets) in years of drought, inundation and other calamities. Then the numerous purchasers of zamindaris and purchasers of permanent tenures and other interests above those of cultivating raiyats, paid millions and millions of rupees in acquiring their interests in good faith

believing in the solemn pledge given at the time of Permanent Settlement, and in subsequent tenancy legislations no one ever dreaming that under the British Government there could be a confiscation of their rights. Such a thing was not done even under the despotic rule of the Muhammadan Government.

It is not easy to calculate the amount of compensation but it should be on the market value.

The market value would vary in different districts, and would depend upon the nature of the interest, whether the property is entire or a fractional share, improvements made such as embankments, excavated irrigation channels and tanks and various other factors. These should be determined by a committee of competent persons.

The total cost cannot be ascertained without determining the profits of each zamindar or tenureholder after deducting the revenue or rent, and collection charges, and how many years' purchase should be paid for each class of cases.

Taking the raiyati assets at 12 crores it would be 240 crores of rupees at 20 years' purchase, besides the compensation for khas lands of the landholders.

**Q. 15.** If compensation is paid in bonds carrying interest, it may be made redeemable after 40 years. The rate of interest should be 5 per cent.

**Q. 16 and 21.** The zamindari system is the pivot round which rural Bengal turns, and the State purchase of zamindaris and tenures will effect a collapse in the social and economic structure. The educational, charitable and religious institutions maintained by big zamindars are not likely to be maintained by them. The number of big zamindars and tenureholders is small as would appear from the number of electors in the landholders' constituencies in the Bengal Legislative Assembly. There is, however, a very large class of small zamindars, and tenureholders who form the middle class.

One of the social results of the subinfeudation has been the impetus to the increase of a middle class in a country possessing little or no manufacturing industry. At one time the growth of intermediate tenureholders was thought desirable. In a despatch (No. 14 of 9th July 1862), the Secretary of State stated that "it is most desirable, that facilities should be given for the gradual growth of a middle class connected with the land, without dispossessing the peasant proprietors and occupiers. It is believed that among the latter may be found many men of great intelligence, public spirit, and social influence, although individually in comparative poverty. To give to the intelligent, the thrifty and the enterprising the means of improving their condition by

opening to them the opportunity of exercising these qualities, can be best accomplished by limiting the public demand on their lands."

The proprietors, the tenureholders and other middle class people who stand between the zamindars and the cultivators have built up the social and economic structure of Bengal. It is they who have by their intelligence and resources taken the initiative in all social and economic matters in rural Bengal, and the cultivators have followed them, when the former have been able to induce the latter to do so.

About 80 per cent. of the people of Bengal live in villages.

The question of unemployment among the middle classes has become very acute, and while people are advised to "go back to land," it would be disastrous to the social and economic structure of rural Bengal to do anything which would have the effect of driving the middle class people to towns to swell the number of the unemployed, leaving the villages in the hands of only tillers of the soil.

**Q. 17.** If the State purchases zamindaris, the interests of all tenureholders between the zamindar and the raiyat also should certainly be purchased by the State, as they are all parts of the same zamindari system. There would be no sense in acquiring the zamindari interest leaving the tenures intact. The interest of tenureholders is very extensive and valuable. For instance, a patni is as good as a zamindari, only that the former has to pay rent to the latter, and net profits generally are much smaller. But so far as the raiyats are concerned, he is to all intents and purposes the zamindar. The owners of these tenures paid large sums for taking settlement, but the purchasers of patni and such tenures paid very large sums. If the abolition of the zamindari system is considered essential, all grades of interests should be acquired by payment of fair compensation.

The State purchase of all interests above that of the actual cultivator would lead to no advantage either to the State or to the cultivator, unless there is better farming and better agriculture under State landlordism. The enormous amount of money which would be required by the State for purchase of the interests, or if no cash payments are made, the amount of interest and necessary sinking fund would absorb the major portion of the raiyatwari assets. The collections would be uncertain, remissions may have to be granted in cases of failure of crops, drought or inundation. There may be a repetition of what took place before the Permanent Settlement. The collection charges would be very heavy as there must be a huge establishment for collection of rents, for re-assessment and re-settlement with raiyats and there would be costs for construction of protective embankments and works of irrigation, costs of revisional settlements and maintenance of records. If the zamindars and tenureholders are driven out of the lands, the State

would have also to make additional grants for schools and dispensaries to replace those now granted by them. Taking all these into consideration, it is difficult to see what benefit would accrue to the State.

So far as the raiyats are concerned, if the raiyati system is adopted it would mean higher rents with periodical re-assessments unless the rents of raiyats are made unalterable and fixed for ever, in which case there would be no benefit to the State.

**Q. 18 and 19.** I am not in a position to answer these questions.

**Q. 20.** The Permanent Settlement gave an impetus to subinfeudation which however existed from before. The Government under the Permanent Settlement avoided the trouble, risks, and uncertainty of collections under khas management by settling with zamindars at an unalterable revenue. For the very same reasons the big zamindars who found it difficult to manage their estates properly in khas, settled them in patni and other tenures, thus getting a fixed and certain income without any trouble or risk. It was a case of absolute necessity with some of the zamindars to meet the revenue demand, and without the creation of such tenures, some of the zamindaris could not have survived at all. But as observed by Sir George Campbell "if a gradual accession to the wealth and influence of the sub-proprietors be a desirable thing in the interests of the community, the selfishness of the landholding class is not, in this instance, a subject for regret."

The Settlement Regulations (Regulation VIII of 1793, Regulation V of 1812 and Regulation VIII of 1819 among others), encouraged such subinfeudations by giving tenures permanency and fixity of rent. Sir John Shore observed:—"It is certainly also for the interest of Government and Government of the country, that the great zamindars should be dismembered, and a number of petty proprietors be increased. The raiyats or inferior renters who suffer from the irregularity or inequality of the assessment will obtain relief from being transferred to a more prudent, economical or equitable management."

But subinfeudation has not increased the raiyati rents. The income of the zamindar is distributed between him and tenureholders. The raiyats are therefore not affected. They have to pay the rents, whether the person to receive them are the zamindars or tenureholders, and the tenancy laws afford protection to them for any unjust increase or exaction by any tenureholder.

It is true that as a result of subinfeudation the raiyats occupy a lower social position, as subordinate tenureholders occupy a higher status over them, but it has compensating advantages. The great middle class of Bengal was in existence from before the Permanent Settlement but the creation of permanent tenures by zamindars helped their growth and as stated above, the Permanent Settlement has

encouraged it, by giving them permanency of tenure and fixity of rent by legislation, with the result that a numerous body of persons of intelligence, ability and with capital, have been incorporated in the rural society and social and economic structure has been strengthened and developed.

**Q. 22.** If the zamindaris and tenures are purchased by the State their homesteads and khas lands should be left with them if they choose to retain them, on payment of fair rent. Those who would prefer to take to farming should be allowed to keep their khas lands in perpetuity with rights of ownership. If they do not choose to do so their khas lands and homesteads should be purchased along with tenanted lands. But many of them have their homestead on rent-free lands, and in such cases the rents should be very small.

The zamindars' and tenureholders' khas lands can be ascertained from the Settlement record-of-rights, and with reference to section 120 of the Bengal Tenancy Act; and homestead can be ascertained from the record-of-rights.

**Q. 23.** The occupancy right of raiyats as it stands now, is a creation of British legislation. In the earliest Hindu period, as already stated, the cultivator who reclaimed the land, had only the right to occupy and till the land and enjoy its produce. The question of eviction did not arise then, as there were not sufficient cultivators for the vast waste and jungle lands. In later times, and before the Muhammadan conquests, the original settlers of the village and their descendants and new cultivators who permanently settled in the village came to be known as khudkasht raiyats. Khudkasht raiyats were very little disturbed during the Muhammadan period. The rights were hereditary and they could not be evicted so long as they cultivated and paid the customary rent or according to his particular engagements but they could not transfer their holdings. There was not enough profit to lead to systematic underletting and little room for mercantile dealings, such as selling or letting though there was mortgage. At the time of the Permanent Settlement the *khudkasht raiyats were of two descriptions (i) khudkasht, kadeemee (those who had been in possession for more than 12 years before the Settlement, (ii) the ordinary khudkasht,* and there were the paikasht raiyats who were not resident cultivators. At the time of the Permanent Settlement the only raiyats whose rents were fixed and who were protected from ejection were the kadeemee-khudkasht raiyats.

The state of things continued till Act X of 1859 when "occupancy-raiyats" were created.

The old distinction between khudkasht (kadeemee or ordinary) and paikasht was abolished. Under that Act it was not essential that the

raiyat should be a resident of the village, nor even that he should cultivate the land. Under section 6 every raiyat who shall have cultivated or held land for a period of 12 years shall have a right of occupancy in the land so cultivated or held by him, whether it was held under a patta or not, provided he paid the rent.

The rent of a raiyati-holding from the time of the Permanent Settlement, or whose rent had not been changed for 20 years could not be enhanced.

The rent of an ordinary occupancy raiyat could be enhanced on the ground, that it was below the prevailing rate, or the value of produce, or the productive power of the land, had increased otherwise than by the agency or at the expense of the raiyat, or that the land had been found on measurement to be greater than that for which rent was previously paid by him. There could not be ejectment except in execution of decree for rent under the Act. Crops could be distrained for the arrears of rent of only one year. There was no definition of raiyat in the Act, and the raiyat could continue to be so even after sub-letting.

The rights of the occupancy raiyat have been very largely extended by subsequent tenancy legislation. Foremost among them is that an occupancy right is freely transferable without any restriction, or payment of landlord's fee whatsoever. It is not necessary for an occupancy raiyat to be a resident, or hereditary cultivator and a non-cultivator may come in within the definition of a raiyat.

His crops cannot be distrained and he cannot be ejected except in execution of a rent decree (as under Act X of 1859). He has right to trees within his holding, he can excavate tanks in his holding, and has got other privileges. Under the Act of 1938 enhancement of his rent is suspended for ten years, and no suit for arrears of rent can be instituted without an interval of nine months.

It appears, therefore, that the rights of khudkasht raiyats of any earlier period cannot be said to be similar to those of occupancy raiyats which is the creation of British legislation.

**Q. 24.** The view that the cultivating raiyats had "always been the actual proprietors of the soil" is not correct. I have already referred to a passage from Manu, Chapter IX, Sloka 44, "Sages pronounce cultivated land to be the property of him who cut away the wood or who cleared and tilled it" and pointed out that it did not show what "property" was acquired thereby, and whether he had anything more than a right to cultivate and appropriate the produce subject to payment of the King's share of the produce. The principal elements of proprietorship, viz., the right of disposal of the land by transfer did not belong to the cultivating raiyat at any time until by tenancy legislation a class of raiyats (raiyats holding land at a rent or rate of rent fixed in perpetuity) were given the right of transfer and subsequent legislation has

given the right of free transfer to occupancy raiyats. I have also referred to the answer of the Roy Royan (to question 47) where he said, "A raiyat being a tenant holding under a patta, and possessing no authority to sell or give away has consequently no property in the soil (Harington, Volume III, p. 354). In the earliest times when tenants were not numerous the rents paid by them to the State were a form of tax for affording protection to their person and property and for carrying on administrative machinery. But that state of society ceased thousands of years ago, and long before the Moghul period, there were zamindars between the cultivators and the State, and during the Moghul period there was a large body of zamindars and tenure-holders and the British recognised the position.

**Q. 25 and 26.** Before answering these questions it is necessary to know what exactly is meant by the expression "Actual cultivator" of the soil. Does it mean only the person who actually ploughs with his own hands (or with the aid of the members of his family) or includes also persons who do not themselves plough with their own hands, but carry on cultivation through agricultural labourers?

Leaving aside the case of the actual tiller of the soil who himself ploughs his land, cultivation is carried by a numerous body of persons, who provide the cattle, seeds, manure, plough and other implements of husbandry, in fact everything, but engages agricultural labourers to actually plough the land. In western Bengal the agricultural labourer is of two descriptions (*i*) the *mahinder* who is a whole-time servant and is remunerated by a fixed pay and he either takes his meals at the house of his master or is given a fixed quantity of paddy for his food. He does not get any share of the produce. (*ii*) The *krishan* who cultivates the land for his master and is remunerated by one-third share of the produce. He has nothing to do with cattle, plough, implements of husbandry, manure or seed or anything whatsoever. He merely supplies his labour, and generally takes advance of paddy or cash throughout the year which is deducted from his share of the produce when the paddy is threshed and divided. The owner if he is a raiyat (or a rent-free holder) has to pay the rent or cesses, provide for irrigation, and repair of the lands and make other improvements such as removing deposit of sand, and filling up of ditches, etc.

All the middle class of Bengal who carry on cultivation with their own plough, etc., do so with the aid of hired labourers as described above. The Brahmins as a class are prohibited by their religion from ploughing lands with their own hands; and all the "Bhadraloks" carry on cultivation in the above manner. (I am not dealing here with case of carrying on cultivation through bhagchasis, bargadars, etc., as they will be dealt with later, with the question about bargadars).

But it is not merely the Brahmins or other bhadraloks who carry on cultivation in the above manner. The actual tiller of the soil has to do the same where he cannot plough all his lands himself. A tiller cannot properly cultivate more than 5 acres of lands which is sufficient for one plough, with his own hands. If he has got more than 5 acres of lands he must take the help of "mahinders" or engage "krishans" to cultivate the rest of the lands, unless he has got other adult male members capable of cultivating lands. In case where he has a large quantity of land or lands more than sufficient for a plough (and he has no other additional male member of his family capable of carrying on cultivation) he is in the same position as the Brahmin or other bhadralok cultivator. Now the "mahinder" or the "krishan" is as much a hired labourer as an ordinary agricultural labourer who is remunerated in cash, the only difference being that the krishan is remunerated by a share of the produce. But between an ordinary agricultural labourer or even a "mahinder," and a "krishan" the latter's services are better from an economic point of view. The ordinary labourer or even a "mahinder" has no incentive to work for larger produce, because whether the produce is small or large, he gets only his wages, whereas the "krishan" has an incentive to work because he will get one-third of any increase in the produce.

The class of persons from whom krishans are recruited are labourers who earn daily wages and have no fixed income whereas the "krishan" gets a third share of whatever he might by his exertion be able to produce from the lands and has therefore practically a stable income, and is better off than a labourer whose wages are paid in cash.

In the rainy seasons (after sowing) when the day-labourer finds difficulty in getting work, and even when there is failure of crops the "krishan" gets advance of paddy and cash from his master which he repays with interest in better years. The class of persons who carry on cultivation through "mahinders" and "krishans" are actual cultivators though they do not actually till the soil with their own hands.

No one has ever suggested that the right of occupancy should be taken away from this class of persons. If that is done, not only the Brahmins and other bhadralogs but many of the peasants themselves will have to sever their connection with land; which would be disastrous to the social and economic structure of rural society.

If the right of occupancy is to be taken away from the raiyats belonging to the middle class, it will also have to be taken away from the actual tillers to the extent of such portion as he cannot plough with his own hands. But as stated above, it is not possible for any peasant to cultivate more than 5 acres of lands, the vast quantity of lands, therefore, will remain either uncultivated or will have to be let out to the landless labourers, but where will such persons who earn annas 4 or

annas 5 a day, get bullocks and other requisites of cultivation? The value of lands will assuredly fall to the lowest limits and the revenue of the State is sure to suffer. These matters should not be lost sight of in considering the question or restricting the right of occupancy to the actual tiller of the soil.

I think the right of occupancy should not be taken away from the numerous bodies of cultivators mentioned above. But when the cultivator has sublet the entire holding for cash rent the right of occupancy should vest in the under-raiyats, as the raiyat in such a case becomes a middle man, a mere annuitant, and there is no reason why the right of occupancy should continue to be vested in him. The same remark should apply to cases where a raiyat sublets a portion of his holding to the extent of such portion.

**Q. 27.** It is necessary to clear up what is meant by "non-agricultural tenants" and "non-agriculturists." If those expressions have reference to non-agricultural lands, then I do not think that they require any special protection which was intended for tenants of agricultural lands, because one of the main objects of the Permanent Settlement was the extension and improvement of agriculture. But persons who do not belong to the agriculturist (peasant) class and who in one sense may be said to be a non-agriculturist, can carry on cultivation in agricultural lands by hired labour as stated in answer to questions 25 and 26. I do not see why they should not come within the scope of the protection intended for agricultural tenants.

If, however, the land is non-agricultural, the tenant should be left to be governed by the terms of the contract with his landlord.

**Q. 28.** There does not seem to be any reason why statutory rights intended to protect the interest of the cultivators should persist in land which has been permanently converted to use for non-agricultural purposes. I do not see, however, how the State can levy any additional tax on such lands. Such lands also are included in the Permanent Settlement. Special protection afforded to agricultural lands is one thing, and the State levying additional tax on it is another. Where the land is converted to non-agricultural uses, income-tax may be levied, on the profits of any business carried on, or on the annual value of any building erected on it, which is done even now. But the tenant of such land will have to pay rent to the landlord and perhaps much higher rent when the land is converted to non-agricultural purposes (unless such use is allowed by the present law) and if the State levies any additional tax upon it it would amount to double taxation.

**Q. 29 and 30.** The number of bargadars, bhagchasis, adhiars, and others cultivating on a share of the produce, is on the increase. The factors that mainly contribute to the increase are those stated in clauses

(ii) and (iii) of question 30. The number of transfers of raiyati holdings in favour of non-agriculturists have been growing steadily for a long time, even when they were transferable only with the consent of the landlord, obtained before or after the transfer. The number increased after they were made freely transferable by the Tenancy Act of 1928. Even then, there were some checks on the transfer, as landlord's fee had to be paid at the time of registration of the deed of transfer, and mutation fee had to be paid to the landlord for subdivision of holdings by purchasers of shares of holdings. That check also has been removed by the Bengal Tenancy Act of 1938. The transferor raiyat in some cases, or other persons take the land on "bhag" from the transferee when he does not keep the land in his own cultivation. Many transfers were also due to economic depression for meeting financial liabilities.

It is difficult to see, however, how the non-conferment of any statutory rights on bargadars by the Amending Act of 1928 could lead to an increase in their number.

**Q. 31.** The area normally held by each bargadar is about 5 acres more than which, cannot be cultivated by a single cultivator. It is difficult to say whether the majority of bargadars hold land in raiyati or under-raiyati right, but many of them take some land on barga where he has not sufficient raiyati or under-raiyati lands for his plough (or ploughs as the case may be).

**Q. 32 and 33.** I do not think that the right of occupancy and other rights should be extended to bargadars, and in my opinion the barga system is economically sound.

The mode of remunerating agricultural labourers by giving them a share of the produce has been prevalent in Bengal from ancient times, and there is no doubt that it results in increase of production. The mahinder who gets money and paddy as his wages has no interest in the produce of the land, and it is therefore that cultivation through krishans and bhagchasis is better than through mahinders because the latter have no incentive to work for larger production, as they do not get a share of the increased produce.

Persons who have no cattle or plough of their own have to carry on cultivation through bhagchasis (bargadars). He may have lands not sufficient for a plough. On the other hand a bhagchasi may have some raiyati or under-raiyati lands of his own not sufficient for a plough, and if he has a large family, may require lands for two ploughs. Brahmins owing to religious prohibition, and other bhadralogs in this country on social grounds, cannot plough with their own hands, and it is expensive to keep plough and cattle, etc., for cultivating a small quantity of land. There are minors or widows who cannot carry on

cultivation. Then again there are religious and charitable institutions and cultivation of lands which support them must necessarily be carried on through others. All these persons depend upon the produce of the land for their subsistence, and they have been maintaining themselves from the produce of land from generation to generation.

No analogy should be drawn from the fact that the produce-payer in Bihar is a tenant, and the share of the produce which the landlord gets is bhaoli rent. No one denies that there may be a produce rent. Lands are held extensively on bhaoli rent in Bihar.

The question is not whether persons cultivating and sharing the produce with the owner (in which expression I include the proprietor, tenureholder, raiyat, and under-raiyat) may be a tenant, but whether he is so in Bengal. In Bihar sometimes the lands of a whole village are let out on bhaoli rent to raiyats, on the batai or danabandi system. The standing crops are appraised and divided by the agents of the landlords with the aid of *salishes* (arbitrators) if necessary. Sections 69 to 71 of the Bengal Tenancy (repealed by Act IV of 1928) made provisions for cases where a dispute arises as to the quantity, value or division of the crops, or where the tenant or the landlord or his agent does not appear in proper time for appraisalment. These sections were in the Bengal Tenancy Act when Bihar also was governed by it, and though they applied to Bengal also, a glance at the decided cases noted in Mr. Sen's Tenancy Act (pages 409-417) would show that they came from Bihar. These provisions were not resorted to in Bengal, at any rate in West Bengal, as the bhagchasi has never been considered a tenant in Bengal (I am ignoring the very few cases in East Bengal where the bargadar was recorded in the Settlement record-of-rights as bargadar).

In Bengal the persons who cultivate lands through bhagchasis are mostly raiyats themselves each owning, generally speaking, a small quantity of land.

In Bihar, the system of bhaoli tenancy prevails from time immemorial. There the land is let out to a tenant on bhaoli rent. In Bengal, on the other hand, the owner and bhagchasi have from time immemorial adopted the bhag system as a mode of cultivation.

The bhagchasi provides the cattle, plough and his labour but the raiyat at the outset pays a heavy price for purchasing the land, then defrays the cost of improving the land when necessary. He has to pay the rent (and cesses) of the land. Where he provides the manure he gets half the straw, and where the bhagchasi does so, the former gets only a small share of the straw. In some places the cost of irrigation (where water has to be purchased) is paid by the raiyat. Where the raiyat is a resident of the village, as in most cases he is, the crops are stored in his yard and threshed if so desired by him, unless he allows

the bhagchasi to do so in the yard of the latter, and then divided between them. It will be seen, therefore, that the bhagchasi in Bengal is not the same as the Bhaoli tenant of Bihar whose position is similar to that of the raiyat in Bengal.

Whether it constitutes a tenancy or is a mode of cultivation depends upon the nature of the arrangement between, and the intention of, the contracting parties. If the bhagchasi and the owner of the land agree between themselves to have the land cultivated by the bhagchasi on the terms indicated above, it would be a mode of cultivation and not a tenancy and this arrangement has been adopted as a mode of cultivation in this country from earliest times.

There is reference to it in Manu, Chapter IV, p. 255, as "Ardhika" and in Yajnavalka (Achara Adhyaya, Sloke 166) as "Ardhasir" which means a cultivator who takes half the crop in return for labour.

In Kautilya's *Arthashastra* reference is made to employment of persons who cultivate for half the share of the produce.

The system has worked smoothly. Sir Frederic, then Mr. Sachse, observes in the Mymensingh District Gazetteer, page 69: "Nearly all the bargadars have jote lands of their own. They employ their surplus plough in cultivating the lands of widow neighbours or of those who have lost their cattle. If the owner wishes to oust them there are always others glad to give them new lands on the same terms. On the other hand there are many who have cultivated the same lands on those terms for generations.....They are an unambitious class and apparently quite content with the profit they get. Generally speaking the bargadars and their landlords are on good terms" and at pages 45-46 in his Mymensingh Settlement Report:—

"So far as we saw in the mufassal the system (barga) works with remarkable smoothness and we never heard any quarrels about the distribution of the crops or the disposal of the by-products."

The idea underlying the question seems to be that bargadars or bhagchasis have some interest in the land which the Government should protect, that the right of occupancy should be with the actual tiller of the soil, and that the conferment of tenancy right upon bhagchasis which will give him a sense of security against being turned out at the pleasure of the owner of the land will lead to increase of produce, and will, therefore, be beneficial to the country from the economic point of view.

But bhagchasis generally throughout the country, at any rate the bhagchasis in West Bengal, have never had any interest in the land. I am not aware of any authority for the assertion that such persons have been treated as labourers only in recent times or that they had the

status of tenants (in the legal sense of the term) at the time of the Permanent Settlement. The power of legislation reserved in the Permanent Settlement Regulation for the protection of cultivators cannot be invoked in connection with bhagchasis or bargadars unless it is shown that they are an oppressed class of people who require protection.

The suggestion involved in the question seems to ignore the practical difficulties of cultivation by the bhagchhas system. The produce from land is uncertain, and depends mainly upon the labour bestowed upon it, irrigation, and also upon manure. The idea, as stated above, is to give some sort of fixity of tenure to bhagchasis so that they may not be liable to be ejected at the pleasure of the owner of the land, and the feeling that he cannot be turned out would lead to increase of produce from the land. But it is a mistake to suppose that a bhagchasi is turned out whimsically. Where the bhagchasi cultivates the land properly, the owner of the land would not turn him out merely for the pleasure of doing it. On the contrary, he would try his best to retain such a bhagchasi who has an attachment for the land, whether he is protected by law or not. It is to the interest of the owner of the land to do so and he knows it. As a matter of fact, a bhagchasi may go on cultivating from father to son if he does it properly, and the owner of the land does not replace him by another out of sheer perversity. On the other hand, it is of the utmost importance to the owner that the land should be cultivated by a good cultivator, so that it may yield the largest quantity of produce, as the produce in most cases, is the only thing upon which he and his family depend for their subsistence. In considering such a matter, one should not think only of the wealthy mahajan or pleader, but should consider cases of the countless poor middle class people, minors and widows. It is true that the abolition of the provision relating to commutation removes one of the principal objections. But that is not the sole ground of objection. If the bhagchasi gets a tenancy right, the owner of the land would be at his mercy. However, negligent, the bhagchasi may be in cultivating the land, he cannot be replaced by a good one. It may be said that the bhagchasi would take good care to cultivate the land properly because he has a half share in the crops. But many a bhagchasi has some lands of his own and takes some other land on bhag. But, apart from that, the bhagchasi may be a good cultivator, when the land is taken by him, but he may be disabled by age or sickness from cultivating the land properly, and he must under the circumstances be satisfied with whatever he can get from the land. Then the heir of a bhagchasi may be an indolent or unskilful man. Then again, suppose the bhagchasi dies leaving a widow and minor children, the owner of the land cannot settle the lands with another bhagchasi as the heirs of the deceased bhagchasi have tenancy right. How is the cultivation to be carried on? The heirs of the deceased may have to leave the land fallow or

must make it over to another bhagchasi who might cultivate it indifferently, and the owner may have to be satisfied with the share of a very small quantity of the produce raised by such third person.

It is to be borne in mind that bhagchasis generally are not men of substance, and in many cases there is no security for the owner's share of the produce. Under the present system, where the bhagchasi fails to deliver the share of the produce or dies, the owner can at once settle the land with another person, but if a tenancy right is given the owner will have to sue for his share of the produce, and get a decree which might ultimately prove infructuous. In the meantime, the bhagchasi or his heirs (as the case may be) would continue in possession. The process will have to be repeated, and the owner of land may have to starve for the whole period, as the produce in many cases is the sole means of his subsistence. The cattle may die in the cultivation season, and the bhagchasi may not be able to purchase cattle at the proper time. Why should the owner be compelled to share the misfortunes of his bhagchasi in these cases? If the bhagchasi has no tenancy right (as at present), the owner of the land in any of the contingencies mentioned above, may step in, and make arrangements for cultivating the land by some other person in bhag or in other ways.

If the bhagchasi is astute enough, he might cultivate the land indifferently, or even leave the land fallow, say for a couple of years (in the meantime taking some land on bhag from some other person or earning a living as a labourer, as some of them belong to the "labourer class" and not to the cultivating class), in order to compel the owner of the land to sell the land to him at a nominal price. These are some of the objections (and they are not fanciful) which may be urged against conferring tenancy rights upon the bhagchasi, and no workable scheme can be devised for obviating them. These considerations do not arise when land is let out to a tenant at a fixed quantity of paddy. As I have already pointed out, in the bhag system the produce may be stacked in his yard if so desired when the owner is a resident of the village, where it is threshed, and then divided with the bhagchasi. If a tenancy right is given to the bhagchasi he would as of right take the produce to his own house, and if he is dishonest, the owner would have to be satisfied with whatever the former may choose to give him as his share. I do not mean to say that a bhagchasi has to be turned out for his laziness or dishonesty every year. But under the present system, he knows he can be turned out if he is guilty of negligence or dishonesty, and he is practically perpetually on his trial. Once a tenancy right is conferred upon him he is safe, and the motive which impels him to work hard, and, cultivate properly, would be gone. Then again the system of appraisement would have to be resorted to in order that the owner may have his proper share of the crops without dishonesty on the part of the bhagchasi. That certainly is expensive for

a raiyat in Bengal who has given a few bighas of land to a bhagchasi for raising crops for his subsistence. In Bihar the landlords (zamindars or tenureholders) can afford to bear such expense as very large areas are let out on bhaoli rent. It might be asked, if there is no difficulty in Bihar, where the bhaoli system prevails and the cultivator has got the status of a tenant, why should it be different in Bengal if tenancy right is given to a bhagchasi? But it must be borne in mind that in Bihar, the raiyats themselves hold lands on bhaoli rents. As already pointed out, sometimes whole villages or half the lands of villages are held on bhaoli rents. The persons who let them out are generally the zamindars or tenureholders. If they let out lands on cash rent, the rent they would get would be small, and there is no doubt that they get much higher rent under the bhaoli system. In the circumstances it does not matter much if an individual raiyat does not cultivate his lands to the best advantage. The lands let out in bhaoli are extensive and there is the system of appraisement in the field which is a safeguard against dishonest dealing by the tenant. In Bengal on the other hand, as already pointed out, those who settle land in bhagchas are (among the persons who cannot cultivate themselves), generally raiyats or rent-free holders and they have to live upon the produce of the land. The bhagchasi where he has no lands of his own and is a hardworking man, cultivates the land properly, and he has no fear of being turned out. But many a bhagchasi has some raiyati lands of his own, and he would not bestow so much care on the bhag lands, as he would do on his own raiyati lands, because in the former case he would get the entire produce and in the latter only a half. It is of the supreme importance to the owner of the land to see that the land is cultivated properly and to the best advantage, and where it is not done by the bhagchasi, or he is dishonest, to replace him by another. These are the main reasons why the raiyats are so much against the conferment of tenancy right upon bhagchasis.

Then it has yet to be shown that the bhagchas system works hardship upon the bhagchasi. The krishan generally gets one-third for his wages. The proportion of the produce which a bhagchasi gets varies in different localities and depends upon the nature of the soil, the demand for land and the cultivating population in the locality. Generally the bhagchasi gets one-half of the produce and gets almost the whole of the straw as he provides the cattle and the manure. Where the owner provides the manure, the bhagchasi gets half the straw (there are local variations). The price of straw in some years may be equal to the price of at least one-third of the paddy which the bhagchasi gets as his share.

A person having both raiyati land and bhag land cares more for the former than for the latter, but that is not because the tenure of the bhagchas land is uncertain, but because he gets the whole produce of

the raiyati land on payment of only a small money rent to the landlord. Where he has no raiyati lands, and has to depend solely on the bhagchais land, the bhagchasi if he is a hardworking man does not and cannot afford to neglect it. Instances are not rare where a hardworking and skilful bhagchasi has saved money and acquired raiyati lands, and then given up the bhagchais. In such cases it is the existence of the bhagchais system which has enabled him to become a raiyat. The hard-working and skilful bhagchasi needs no protection under the law, as he is greatly in demand. It is the indolent and unskilful bhagchasi who is turned out, and any tenancy right conferred upon such a person would not only result in injury to the owner, but would be a distinct economic loss to the country.

It may be pointed out that the owners of land who get lands cultivated in bhagchais provide the capital when any money has to be spent for reclaiming the land rendered unfit for cultivation by inundation or deposit of sand or otherwise, and they have to meet the costs for irrigation, where the bhagchasi cannot afford to do so.

The economic adjustment has taken place through a long time, with local variations depending upon various circumstances. The bhag system has worked satisfactorily in the past, there are no indications that it needs change at the present time, and in my opinion it should not be disturbed upon the ground of supposed hardship on bhagchasi or from a mistaken view that it would conduce to the economic welfare of the country.

To give the bhagchasi the status of tenants would be to rob the owner of the land of a substantial portion of his rights, and may in many cases be disastrous to the poor middle class people who on social and religious grounds or from disability arising from sex, age, sickness, or minority, cannot cultivate the land themselves but who entirely depend upon the produce of land, and also to religious and charitable institutions.

It may be said that some sort of tenancy right may be given to bhagchasis, viz., a tenancy-at-will, with a right to the owner to eject the bhagchasi on certain grounds, such as that he has failed to cultivate the land properly or has no means to cultivate it. But how is the Court to decide the question? A few days' delay in sowing, manuring or irrigation or doing many other acts of husbandry would have a serious effect on the crops. Witnesses would have to be examined to prove or disprove the matters in dispute between the parties, involving heavy expense to them, and it would be almost impossible for any Court to decide the matters involved in enquiries of this nature. No workable scheme can be devised by which the objections to the conferment of tenancy right may be obviated.

I do not think we should discuss the barga system with reference to any system of cultivation in Europe, the conditions of the soil, the

habits of the people, the social conditions and the general economic conditions of the country being so very different.

There are some people who look upon the bhadraloks as drones and idlers but those "drones" have built up the social structure in rural Bengal and have always lived upon the produce of land in this country. Many of them are holding lands from before the Permanent Settlement as raiyats or lakherajdars for generations, and getting the lands cultivated through mahinders and krishans, or bhagchasis where it is not convenient for them to keep cattle and plough. One should not forget that Bengal is not Europe, that the habits and customs of the people are quite different from those of Europe, and that many people in this country cannot cultivate themselves on social or religious grounds. They cannot for the same reasons work as mill-hands in factories and mills. But they have to live, and the mode in which cultivation is carried on is the result of the economic and social adjustment of ages. As stated above, the middle class people are living in the villages and supporting themselves from the produce in these ways from time immemorial, and one should not forget that the effect of driving away these people from villages would be to swell the number of unemployed in town.

It sometimes happens that middle class people come to towns for employment leaving their lands with bhagchasis. But now that no employment can be had, they will have to go back to villages, and be compelled to take up cultivation. The conferment of a tenancy right upon bhagchasis, however, would close that door also. However that might be, most of the people who get lands cultivated in bhagchasi system reside in villages, and they will be seriously affected if tenancy right were given to bhagchasis. Middle class unemployment is already very acute, and I am of opinion that nothing should be done which would have the effect of driving them to towns where they would find it impossible to get employment.

The objections to the conferment of occupancy rights upon bargadars, bhagchasis, etc., do not arise to the conferment of such rights where the quantity of produce to be paid to the owner is fixed, provided that there is no commutation of such produce into money rent (which was abolished by the Act of 1928). Most of the persons who let out lands at a fixed quantity of produce maintain themselves with the produce received from the farmer. A money rent would ordinarily be very small compared with the price of the quantity of the produce at which the land is let out and the owner's income would be enormously reduced if commutation of the produce were made. He would, therefore be practically ruined if commutation is allowed. It may be observed that in fixing the quantity of paddy sufficient margin is allowed for the risk involved in this system and a cultivator would not take settlement at a fixed quantity of the produce unless he is himself

satisfied that the land is capable of bearing the burden. Moreover if any difficulty arises on account of failure of crops owing to reasons beyond control the matter is amicably settled between the parties.

**Q. 34.** There is no doubt that the effect of giving occupancy right to bargadars will lead the zamindars and others to keep the khas lands in their direct possession, and that a large number of people now cultivating as bargadars will be thrown out of employment.

It may be remembered that when there was a proposal by Sir John Kerr's Committee to confer a tenancy right upon bargadars prior to the passing of the Amending Act of 1928, there was excitement and aroused much opposition, and considerable volume of opinion had been received by the Government, and the Government had to issue a communique that they had decided not to accept it.

Landlords and others who had purchased raiyati lands for good value would certainly oppose the conferment of tenancy right upon bhagadars which would have the effect of reducing their income to a very considerable extent.

**Q. 35.** One-half of the produce is generally the share payable by the bargadar except in the hal-krishani system where it is two-thirds, i.e., the cultivator gets only one-third. I think that the proportion should be left to be settled by the parties, and no maximum limit should be fixed, as it varies in different localities being regulated by the laws of demand and supply; the bargadar in most places being able to dictate his own terms.

**Q. 36.** The wages of agricultural labourers vary in different localities and are regulated by laws of demand and supply. In some parts of the country it is generally 4 to 5 annas per day. Sometimes it is less but in the sowing and harvest season it is more. I understand that in areas under jute cultivation the wages of agricultural labourer during jute cutting and steeping season rises as high as twelve annas a day. The economic position of a bargadar or under-raiyat is better than that of an agricultural labourer because the former has cattle and plough, and is of a higher status.

**Q. 37.** Although before the Act of 1927 raiyats had no right to transfer, the number of transfers were very considerable with the consent of the landlord obtained before the transfer or (as was more commonly the case) after the transfer, on payment of salami to the landlord, and a very large number passed into the hands of non-agriculturists. After the Act of 1928 when the raiyat was given an unrestricted right of transfer there certainly was an increase but still there was some check as landlord's fee (salami) had to be deposited at the time of registration of kobalas. The Act of 1938 abolished the salami and there is now nothing to prevent the passing of occupancy holdings to

non-agriculturists in larger number though sufficient time has not elapsed since the Act of 1938 to enable one to say to what extent transfer to non-agriculturists has increased. But in the nature of things, it must increase this tendency, as transfer can now be made freely without reference to the landlord and without payment of salami. Even the mutation fee under section 88, Bengal Tenancy Act, has been abolished (except one rupee for each mutation).

When the price of paddy or jute was high (for two or three decades) the agriculturists had money and could purchase lands. They could offer higher prices than non-agriculturists. But with fall in prices those days are gone. It is the money-making classes who like to invest their money in lands and the greater the facilities for transfer, the greater the tendency for lands passing into the hands of non-agriculturists.

As for restricting transfers in favour of agriculturists, it is difficult to see how it is practicable. Apart from other considerations, such restriction would tend to the lowering of price very considerably. If the non-agriculturist monied classes are excluded, and transfers are limited to agriculturists only, the market value of land would certainly go down, and in some places where the agriculturist purchasers are poor, the seller would not get anything like a fair price.

However that may be, it would be inconsistent to give an unrestricted right of transfer coupled with a restriction as to the persons to whom the transfers are to be made, more specially as the persons who would be disqualified from purchasing are mostly the persons who can pay a fair price.

It is difficult to offer suggestions on the point. But if the object of the Government is to protect the cultivating classes, the right of transfer should be taken away from them. In this connection, I may refer to the Minute of Sir Richard Garth, C. J., dated the 13th September 1884, during the Rent Bill controversy (Report of Government of Bengal on the Rent Bill of 1884, Volume III, page 87).

"I quite admit that to make the occupancy right saleable would increase its value in the market. But it does not at all follow that this will be beneficial to the raiyat himself. On the contrary, I consider that there is no surer mode of exterminating occupancy raiyats as a class than by permitting them to transfer their tenures; and I believe it would be found, on enquiry, that in those districts where occupancy rights have become transferable by custom, a large portion of them have already found their way into the hands of mahajans, planters and others, whilst the original owners of those tenures have become non-occupancy raiyats.

"If the Government really mean to benefit the occupancy raiyat, let them take every possible means of preventing him from ruining

himself by parting with his ancestral jotes, and becoming the prey of those whose interest it is to deprive him of his status and property.

"Sooner or later occupancy raiyats will want money, families will increase in number; discord and partition will sever the ancestral holdings, marriages and sradhs become more and more expensive; Brahmins will have to be fed, and good seasons and prosperity will not last for ever. If the occupancy right can be sold and mortgaged, most assuredly it will be sold and mortgaged; and that in a very few years. The man of money will buy up all the occupancy rights, which are to be made the most valuable in the soil, and the occupancy raiyats of the present day will become in a few short years either non-occupancy raiyats or coolies.

"Only see what has happened within the last 150 years in our own country. How many of the old yeoman families who were the copy-holders and customary tenants of former days (answering as nearly as may be to the khudkasht raiyats here), are in existence now? How many of the old country gentlemen's families retain their ancestral property? The few of each class who are now to be found, owe the slender remnant which still belongs to them to the law of entail. The rest are gone, and to whom? To those, for the most part, who answer to the land-jobbers, and the trades-people of India, that is to say, land agents, bankers, merchants, trades-people and the other money-making classes. The land finds its way sooner or later into the hands of the man who makes money; and it is so, and will be so, in British India."

**Q. 38.** The minimum size of an economic holding should be 5 acres. But if the family is a large one, and if the adult male members of the family are capable of carrying on cultivation, the area should be proportionately larger.

**Q. 39, 40 and 41.** The size of many raiyati holdings is uneconomic. The laws of inheritance, the statutory right of transfer and the increase of population are all tending to further subdivision and fragmentation of holdings.

Consolidation of holdings up to a certain limit is desirable, but it is difficult to bring it about. There are various classes of lands in a holding, and there are varieties of soil in different fields in the same village. The quality of good lands or lands on which two or more crops can be grown is small in each holding, and on division among heirs, every one of them naturally is desirous of having a portion of such lands in his share, which leads to fragmentation. I do not see how any particular co-sharer or co-sharers can be deprived of such lands or of lands in a particular field on the ground that it would otherwise be uneconomic. Owing to insufficient rainfall or inundation, there may be no crops in one field, while there may be good crops or other kind of crops in other fields. But fragmentation of holdings is encouraged by the right of

free transfer of even portions of holdings by tenancy legislation supposed to be for the benefit of raiyats. Then again section 88, Bengal Tenancy Act, though it does not lay down the area of land in respect of which the division or distribution of rent can take place, gives facility to co-sharers or purchasers to get a distribution of rent even where the rent payable on subdivision is only one rupee (Rs. 2-8 being reduced to one rupee by the Act of 1938).

There are some advocates of farming on extensive scale (by tractors etc.). That, however, is out of the question with regard to cultivation in this country. Nor do I think that collective farming would be liked by cultivators but experiments may be made in some areas if they agree. Sometimes (though rarely) several krishans cultivating different plots of land under the same master join together in ploughing lands or threshing corn. The cultivators may be induced to do "team work."

It would not be fair or just to introduce extensive farming with tractors, etc., in the place of small farmers who cultivate lands with the help of persons like krishans paying them wages by a share of the produce instead of in cash. Lands in the hands of some of the well-to-do small farmers tend to be consolidated to some extent, and I think that facilities should be given to such farmers, for exchange and the right of pre-emption by reason of vicinage, and by prohibiting transfer of portions of holdings below the economic unit, unless the portions transferred become compact blocks in the hands of the transferee with other lands which the latter might have in his possession. But such consolidation would not last long because there would be fragmentation again under the laws of inheritance. As already stated each person getting land by inheritance must get portions of land of different classes in different fields.

**Q. 42.** Accumulation of large areas in one particular hand is not desirable. Very large areas cannot conveniently be cultivated by cattle even with the help of krishans. It would lead to sub-letting and rack-renting. I think a limit of, say, 30 acres should be imposed, but it is difficult to prevent acquisition of raiyati-holdings to avoid accumulation.

**Q. 43.** Coparcenary is detrimental to good cultivation where the holdings are uneconomic, but the evil cannot be removed without interfering with the laws of inheritance. What can be done to minimise it, has been stated in answer to questions 39 to 41, but it would not last long (*see the same answers*).

**Q. 44.** The effect of coparcenary and fragmentation in estates and tenures do not affect agriculture, and the question may be left to the mutual understanding among the coparceners themselves.

**Q. 45.** I do not think it is necessary to compel co-sharer landlords by legislation to arrange for collections. If the co-sharers cannot conveniently arrange for collection owing to disputes among them, or where the tenants are put to harassment or inconvenience in the payment of rents, recourse may be had to the provisions for appointment of common manager in the Bengal Tenancy (sections 93 to 99). There is also the provision for appointment of common agent for certain purposes (*see* 99A).

**Q. 46.** I think that besides extension of cultivation, it was contemplated that one of the means to be adopted by the landlords for increasing their income of property would be, by enhancement of the rates of rent payable by tenants at the time of the Permanent Settlement. That appears from the Permanent Settlement Regulations themselves.

(i) Under section XLIX of Regulation VIII of 1793 the rents of istemrardars (mokararidars) who have held land at a fixed rent for more than 12 years were not to be increased should he engage for his own lands.

(ii) With regard to other istemrardars who have not held for so long a period but with whom the zamindar had contracted not to increase his rent, the zamindar would be bound by his contract.

It follows, therefore, that even in the case of istemrardar (mokararidars), the rent could be enhanced if he had not held at a fixed rent for more than 12 years. In the case of other istemrardars who had not held for 12 years, the rent could be enhanced if the zamindar had not bound himself by contract not to do so.

(iii) The zamindar had under section LII the right to let the remaining lands of his estate under the prescribed restriction in whatever manner he may think proper.

(iv) Under the "prescribed restrictions" the abwabs were to be consolidated with the asal rent into one fixed sum which was to be stated in the patta which the raiyat was entitled to get. No fresh abwabs were to be imposed.

(v) Under section LX, the pattas of the khudkasht raiyats could not be cancelled except upon the ground (among others) that the rent had been reduced within the last three years below the rate of the *nirikbandi* of the pargana, or upon a general measurement of the pargana for the purpose of equalizing and correcting the assessment. That shows that rent could be enhanced in cases not falling within the said exceptions.

(vi) Where it was the established custom to vary the patta for lands according to the articles produced thereon, and the landlord and tenants wished to adhere to such system, the engagements between them were to specify the quantity of land, species of produce, rates of rent and

amount thereof, etc.,.....and in the event of any new species being cultivated, a new engagement was to be executed accordingly.

(vii) There was no provision for fixity of rent of paikash*t* raiyats.

**Q. 47 and 48.** The question whether the framers of the Permanent Settlement contemplated permanency and fixity of rates of rent either in the case of tenants then existing, or in the case of tenants who might subsequently be introduced on the land, has to be determined with reference to the Permanent Settlement Regulations themselves.

The question has been dealt with in answer to question 46. As already stated under section 49, Regulation VIII of 1793 the only tenancies of which rent was fixed in perpetuity were istemrardars (mokarrardars) who had held (i) at a fixed rent for more than 12 years and (ii) such istemrardars who held for less than 12 years but with regard to whom the zamindars had bound themselves by deed not to "lay any increase."

Under section 51 the rent of dependent talukdars was not to be enhanced, except on proof that the zamindar was entitled to do so under the special custom of the district, or by the conditions under which the talukdar held, or that by reason of having received abatements of rent he subjected himself to the payment of the increase demanded, and that the lands were capable of affording it.

The zamindar was to let the remaining lands of his estate under the prescribed restrictions in whatever manner he might think proper (section 52).

The prescribed restrictions were, that the impositions upon the raiyats under the denomination of abwabs, etc., were to be consolidated with the *asul* into one specific sum (section 54), and no new abwab, etc., were to be imposed (section 55).

Section 56 runs as follows:—"It is expected that in time the proprietors of land, dependent talukdars and farmers of land, and the raiyats will find it for their mutual advantage to enter into agreements in every instance for a specific sum for a certain quantity of land, leaving it to the option of the latter to cultivate whatever species of produce may appear to them likely to yield the largest profit. Where, however, it is the established custom to vary the patta for lands according to the articles produced thereon, and while the actual proprietors of land, dependent talukdars or farmers of land and raiyats in such places shall prefer an adherence to this custom, the engagements entered into between them are to specify the quantity of land, species of produce, rate of rent and amount thereof with the term of the lease and a stipulation that, in the event of the species of produce being changed, a engagement shall be executed for the remaining term of the first lease, or for a longer period, if agreed on; and, in the event of any new species

being cultivated, a new engagement, with the like specification and clause, is to be executed accordingly.

The rents to be paid by the raiyats by whatever rule or custom they may be regulated were to be specifically stated in the patta which in every possible case shall contain the exact sum to be paid by them where the rate only could be specified, or where the rents are adjusted upon a measurement of the lands after cultivation or on a survey of the crop or where they are made payable in kind, the rate and terms of payment and proportion of the crop to be delivered with every condition shall be clearly specified (section 57).

The raiyat may demand a patta from the proprietor, etc., when his rent has been ascertained and settled, and the proprietor also was to cause a patta to be prepared and tendered to the raiyat (section 59).

Under section 60 all leases made previous to the conclusion of the Settlement to remain in force until the period of their expiration, and no proprietor to cancel the pattas of khudkasht raiyats unless the rents paid by them within the last 3 years had been reduced below the rate of the nirikbandi of the pargana, or upon a general measurement of the pargana for the purpose of equalising and correcting the assessment.

It appears from the above provisions, that it was only (i) istemrardar (mokararidars) holding at a fixed rent for more than 12 years, (ii) istemrardar with regard to whom the zamindar has bound himself by contract not to enhance, and (iii) khudkasht raiyats whose rents had not been reduced below the rate of the nirikbandi of the pargana, who were protected from enhancement. With regard to all classes of tenants the rent was to be consolidated with abwabs, etc., and a specified sum was to be entered in the patta, but that, however, does not show that their rents were not liable to enhancement. These and other provisions referred to above, were made in order to obviate any dispute as to what the rent (total rent) was, and had nothing to do with the question of enhancement of rent.

Then the engagements were (under section 61) to vary according to the nature of the articles of produce to be cultivated, and as regards the nirikbandi of the pargana section 60 contemplated general measurement of the pargana for the purpose of equalising the assessment. In these circumstances it cannot be held that the fixity of rent of any class of raiyats other than those of khudkasht raiyats was contemplated.

The preamble to Regulation XLIV of 1793 states "It is essential that the proprietor of land should have a discretionary power to fix the revenue payable by their dependent talukdars and to grant leases or to fix the rents of those lands for a term sufficient to induce the dependent talukdars under farmer and raiyats to extend and improve the cultivation of their lands.

The pargana rates were established by Todar Mal during the reign of Akbar, but there was not one rate, there being different rates for different classes of crops, and the raiyat had to enter into a fresh engagement if desirous of changing his crop.

The Board of Directors wrote to Government of Bengal in their letter, dated the 15th of January 1812, "the Permanent Settlement has secured to the proprietors of the estates, the whole of a rise in their rentals."

Again in the year 1815, the Board of Directors wrote as follows:—

"The effect of the Permanent Settlement on lands, such as has been established in the lower provinces of Bengal is to augment the landlords' rent."

The words "rise in the rentals" and "to augment the landlords' rent" should be taken to refer not only to the augmentation which would follow the reclamation of waste and jungle lands, which in the nature of things would take a long time, but also enhancement of rents existing at the time.

Turning to judicial decisions which must be taken as the most authoritative in a matter of construction of statutes, I may refer to the observations of the Judicial Committee of the Privy Council in the case of Radhika Choudhurani *vs.* Bama Sundari Dasi, 13 Moore's Indian Appeals 248:—

A suit to enhance proceeds on the presumption that the zamindar holding under the perpetual settlement has a right from time to time, to raise the rents of all rent-paying lands within his zamindari according to the pargana or current rates, unless he is either precluded from the increase of that right either by a contract or the lands can be brought within one of the exemptions recognised by the Permanent Settlement of 1793. The right of the zamindar to enhance rent is presumable until the contrary is shown.

In Maharanee Shibessuree Debi *vs.* Mathura Nath Acharji, 13 M. I. A. 270 (275), where a Jama was created by a shebait at fixed invariable rent, the Judicial Committee referred to "augmentation of a variable rent from time to time," to the "variableness of the Jama as a normal condition" and to "a presumption against the rent having been fixed founded on the ordinary character of rent."

I do not think that any inference, that the rents of those tenancies which existed at the time of the Permanent Settlement were meant to be fixed in perpetuity, arises from the wording of section 50 (I), Bengal Tenancy Act. Whether fixity of rent was intended must be determined with reference to the Permanent Settlement Regulations themselves. The fact that 66 years afterwards, in Act X of 1859, and 92 years afterwards in Act VIII of 1885, it was

enacted that the rents of tenancies existing from the time of the Permanent Settlement could not be enhanced, and that payment of rent at a uniform rate for 20 years raised a presumption that the rents were not changed from the time of the Permanent Settlement, do not show that the rent was meant to be fixed in perpetuity at the time of the Permanent Settlement. The Legislature thought it expedient to enact the law that the rent of tenancies existing from the time of the Permanent Settlement are not liable to enhancement. Suppose it is enacted now (in 1939) that rents of tenants existing from the time of the Permanent Settlement are not liable to enhancement, it could not be contended that any inference arose therefrom that nearly a century and a half before, it was meant by the Permanent Settlement Regulations that the rents were to be fixed in perpetuity.

It is settled law now (under Act X of 1859 and Act VIII of 1885) that rents of tenants and their predecessors in interest which had not been changed from the time of the Permanent Settlement cannot be enhanced, and that a presumption can be drawn from payment of rent for 20 years at a uniform rate that the tenancy has been held at that rate from the time of the Permanent Settlement.

But reference is made to "the general ground that when the revenue of the zamindar was made unalterable, if it was intended that the rents of raiyats should not remain unalterable also, the State could not have allowed the zamindar to get the entire benefit of any enhancement of raiyati rents."

But the case of the zamindar with whom the Permanent Settlement was concluded at an unalterable revenue is totally different from the case of raiyats. The zamindar took settlement at one-eleventh of the assets, and was under the terms of the Settlement bound to pay the revenue punctually, whether there was drought or inundation, failure of crops or the rents could not be realized on any other ground whatsoever and on the condition that on default of punctual payment the estate was to be sold forthwith. The raiyats did not enter into any such agreement with the zamindars. Whether the rents of tenants could be enhanced or not depends as stated above, upon the terms of the Permanent Settlement. If the rents of raiyats could not be enhanced under the Permanent Settlement there is an end of the matter. If they could be enhanced, the State could not have any share of the benefit of such enhancement having regard to the terms of the Permanent Settlement.

So far as tenancies not in existence at the time of the Permanent Settlement, the rents were to be governed by contract—patta.

Rents of new tenancies (it is to be borne in mind that one-third of the whole province was waste or jungle) were to be assessed

according to the customary rate of the pargana, it is to be observed that there was no one rate for all classes of land. They would vary according to the crops to be cultivated, the nature of the soil, and facilities of irrigation, etc. Assuming that the assessment was to be made according to the different customary rates, it appears that the *nirikbandi* of the pargana was not ascertained. Mr. Macdonell in his memorandum on the Memorial to the Secretary of State by the Central Committee of the Landholders of Bengal and Bihar (Report of the Government of Bengal on the Bengal Tenancy Bill, 1884, page 67) pointed out that, "It was in vain that Lord Cornwallis strove to force his summary procedure for securing a record-of-rights upon the country by declaring in Regulation IV of 1794 that the mere tender by zamindars of "pattas according to the form approved and at the established rates" should bind the raiyats. In vain, too, did he strive to reconcile the zamindars to the interchange of leases and counterparts with their raiyats by establishing a certain line of distinction in regard to rent matters between the Judicial and Executive Departments of Government. "This he did by transferring to the Civil Courts, then newly established, the determination, subject always to the maximum limit of the pargana rate, disputes regarding the terms, while leaving still with the Collector the approval of the forms of the patta. Neither zamindars nor raiyats would accept the scheme; the former aiming at arbitrary power, the latter fearing some hidden danger to their immemorial customary rights. Therefore the scheme remained practically inoperative."

On the whole I am of opinion that with the exception of tenancies which were expressly exempted from enhancement, it cannot be said that rents of other tenancies were intended to be fixed in perpetuity.

As regards fixity of tenure, a khudkasht raiyat could not be ejected so long as he paid rent, but he had no transferable right, and the landlord was not bound to recognize the transferee. The paikasht raiyat was merely a tenant-at-will.

**Q. 49.** Assuming that it was the intentions of the framers of the Permanent Settlement that the rents of the tenants then existing should never be increased, I do not think that there is any case for reducing the rents of such tenants in future or retrospectively to the level prevailing at the time of the Permanent Settlement.

(i) It would be extraordinary to give retrospective effect to a supposed intention a century later; (ii) and it would be doing gross injustice (in fact it would be an act of expropriation) to the purchasers of zamindaris upon the footing of the rights under the laws passed subsequent to the Permanent Settlement, and also to the derivative permanent tenureholders who have taken settlement of, or have purchased tenures on that footing.

If the rent is not high, there is no valid ground why it should be levelled down to what it was at the time of the Permanent Settlement.

Even if it is high, it would be unjust to restore the rent existing at the time of the Permanent Settlement without restoring the conditions which prevailed in 1793 which of course is impossible.

I do not think that there are sufficient materials for determining what the rates at the time of the Permanent Settlement were, and for distinguishing those tenants who are successors-in-interest of tenants existing at the time of the Permanent Settlement, and those who have taken settlement subsequently, and it would not be possible (excepting perhaps in a few cases) to get the materials for doing so.

**Q. 50.** I have already expressed my opinion in answer to questions 47 and 48 that it was not the intention to fix the rents of tenants (other than those expressly exempted) in perpetuity. The subsequent tenancy legislation rightly provided for increases of rent on the ground of a rise in the price of staple food crops.

As for the principle of enhancement on the ground of rise in prices see answer to question 61.

**Q. 51.** Under the Permanent Settlement, waste lands could be settled by zamindars in any manner they liked subject to certain restrictions. It was, however, the intention of the framers of the Permanent Settlement that the pargana rate should not be exceeded. But there was no one pargana rate; there were different rates for different kinds of crops in each pargana. The pargana rates, however, were never definitely ascertained, even before Act X of 1859, and at this distance of time it is not possible to determine the same. But apart from that, it is difficult to see how effect can be given to such intention now. Suppose the pargana rate was two rupees an acre at the time of the Permanent Settlement, the purchasing power of the rupee at the time was immensely higher than what it is at present, and assuming that the pargana rate can be ascertained now, you cannot revert to that rate unless the state of affairs existing at the time of the Permanent Settlement could be restored.

Under Act X of 1859 the "prevailing rate" was adopted as the maximum, as also under section 30A, section 31, Act VIII of 1885 (further restricted by sections 31A, 31B).

**Q. 52.** I am not in a position to express any opinion on the systems which have been tried or advocated in other provinces, unless I get the details and the result. A definite share of the produce according to the nature of the different crops would be simpler, but as pointed out poorer land has to pay higher rent in that system.

Market value in the present state of the market value of land in Bengal would not be a proper basis for determining fair rent.

Customary rates according to the change in price of staple food crops would be better but that does not take into account the prices of valuable crops.

Competition rents will tend to rack-renting. Under section 27 the rent paid by an occupancy raiyat shall be presumed to be fair and equitable until the contrary is proved.

Considering all circumstances, I think that the existing rent should not be disturbed, as it is the result of adjustment during a long course of time.

**Q. 53.** It is difficult to say to what extent the present rents paid by cultivators under the proprietors of permanently settled estates are fixed on (a) custom, (b) competition, (c) consideration of productivity of land, respectively. It would be more or less a matter of conjecture.

Probably the majority are lump rentals, but generally speaking the rentals were originally based upon custom, and one of the elements in determining the customary rate must have been the productivity of land. All lands, however, were not assessed at the same time, and competition was a factor in some cases, and not in others, but the productivity of lands is always taken into consideration.

**Q. 54.** It is not my experience that the poorer and weaker tenants pay higher rents, but it is just possible that at the inception of a tenancy, in a few cases a poorer tenant cannot pay salami, and has therefore to pay a comparatively higher rent.

The factors which have played part in framing the existing rents in Bengal are not the same in all cases. All tenancies have not originated at the same time. Generally speaking, however, custom, the nature of the soil, the productivity of the land, irrigation and marketing facilities, liability to inundation and floods, demand for land among local people having regard to the extent of the local population (and to a certain extent unhealthiness) all these are some of the factors.

**Q. 55 & 56.** Assuming that all zamindars and middlemen between the State and raiyats are moved, readjustment of rent on a uniform basis throughout all parts of the province, would be extremely difficult. The nature of the soil varies in different districts and even in different parts of the same district, and also in the same village. Of course assessment on a general principle such as the cash equivalent of one-fourth or one-sixth of the gross produce and

different rates for each class of produce may obviate the necessity of considering the nature of the soil and the crops, the methods of cultivation and irrigation, embankment and such like matters. But the price of different kinds of crops and marketing facilities are not the same in all localities and the cash equivalent of a share of the produce at one place may mean much more than that in another. Again assessment on the principle of the cash equivalent of share of the produce at different rates for different kinds of crops would necessitate a regular and huge establishment for enquiring into the crops raised and revising assessments from time to time. That, however, must be done if assessment is to be made on the above principle.

**Q. 56.** If a definite share of the produce on its cash equivalent is paid to the State or the existing landlord, one-sixth share should be adopted. See however the observation made in answer to question 55 above.

**Q. 57.** If the Permanent Settlement is abolished, and State landlordism is introduced, the raiyatwari system, I suppose, will have to be adopted and the rent will be liable to alteration from time to time. Otherwise the State would not derive any benefit by abolishing the zamindari system, if the raiyati assets remain the same and the rent is fixed in perpetuity. But it should be borne in mind that an uncertain and increasing State demand on land would not permit people to profit by their own industry and would take away the incentive to increase the produce and to make agricultural improvements. Increase of State demand under the raiyatwari system is different from the increase of rent which is a very small one, under the present zamindari system.

**Q. 58.** I think there would be no advantage by the substitution of income-tax on profits from agriculture in lieu of rent. In the first place it would involve a complicated and highly expensive enquiry into the profits of agricultural tenants, and secondly if tenants with small profits are exempted from income-tax (which must be done), the largest number of tenants will escape the tax altogether, as the largest number of them have no decent income.

The nature of the enquiry into their profits from agriculture would also be harassing to tenants.

**Q. 60.** Neither the landlord nor the tenant does anything when there is fluvial action, but the tenant is entitled to get abatement of rent when there is deposit of sand. That being so, there is no reason why the landlord should not get enhancement when the land is improved by fluvial action. But some good lands might have been washed away by fluvial action. In such cases if the tenant has not

got abatement of rent, he should get the major portion of the benefit which may accrue owing to fluvial action.

The landlord should get some enhancement when land is improved owing to fluvial action. I do not see however why the State should get any share of any benefit arising out of the fluvial action as under the Permanent Settlement the whole area is settled with the zamindar.

The benefit should be divided between the landlord and the tenant by the Court, I do not see how the State can come in for any share of the benefit resulting from fluvial action.

**Q. 61.** I do not see any objection on principle to enhancement on account of a rise in prices. On the contrary I think it is a good ground for enhancement. If the rent were paid by a share of the produce, the rise in price of course would be immaterial. But it would be very material if the cash equivalent of the share of produce is the rent. Suppose the price of paddy rises from Rs. 2 to Rs. 4 a maund, and the rent of an acre of land is Rs. 4, the landlord would have to pay Rs. 4 (i.e., the entire amount of rent, viz., Rs.4) for purchasing one maund, on account of rise in price, whereas he could have purchased two maunds if there were no rise. So practically the rent is reduced by half by the rise in price. On the other hand the raiyat gets double the value of the crops without any exertion or industry of his own, and there is no hardship if he has to part with only a small share of the extra profits which he gets by the rise, more specially as he is entitled to reduction of rent on account of fall in prices [section 38 (1) (b), Bengal Tenancy Act].

**Q. 62.** I do not think that the case of tenants who require their whole crops for their own consumption should be exempted on the ground of rise in prices, as it is unsound on principle, and unworkable in practice. In the first place detailed enquiry would have to be made for determining whether the tenant requires the whole crops for his own consumption. Secondly one tenant may have three members in his family, another may have a dozen. In the former case there may be a surplus of crops after consumption, whereas in the latter not only the whole may be required but may even be insufficient. If the requirements of a tenant were to determine the question, the rent of the latter should be reduced. Thirdly, the crops may be sufficient for a cultivator, but after his death by reason of division among heirs, and transfers of portions, it may be insufficient, and this process will increase with increase of families or of transfer of portions. Lastly, suppose a tenant who requires the whole crops is to be exempted, transfers the holding, and the transferee has got a very small family, would the holding be liable to enhancement in his hands? Suppose again such a person transfers

the holding to another with a big family would the holding be again exempted, and so on? This shows that it would be unworkable in practice.

**Q. 63.** Enhancement of rent on the ground that it is below the "prevailing rate" does not stand on the same footing as reduction of rent on the ground that it is above the prevailing rate. The two cases are entirely different. Under the Permanent Settlement the zamindars were given the right to enhance the rent not exceeding the pargana rate. The pargana rate could not be determined, and under the tenancy legislation rent can be enhanced on the ground of its being below the "prevailing rate." It is on the faith of these provisions of the law that many estates and tenures have been bought and sold.

That probably is the reason why tenancy legislation did not provide for reduction of rent on the ground of its being above the prevailing rate, although other grounds for reduction of rent have been provided for.

The Tenancy Act of 1885 which made provisions for "Improvement" was passed more than half a century ago, and I am not aware of tenants having taken recourse to those provisions. It is not possible to prove improvements even if any were effected more than half-a-century before, and the improvements, if any, must have been exhausted after such a lapse of time. Salami is not necessarily advance rent. It is paid in consideration of the lease granted and rights conferred.

**Q. 64.** I do not think that there should be a law for reducing high contractual rents.

Rent fixed by contract depends on several factors such as the nature of the soil, and the nature of the crops which can be grown, the situation of the land and facilities of irrigation. Rent may be high as compared with other lands, having regard to such considerations but a tenant would not agree to take land at an unduly high rent unless he can make a profit out of the land after paying such rent. If he cannot do so, he would give it up and the rent would find its level when the landlord wants to settle it with another.

As for limiting rents for new settlement I do not see any reason why law should interfere with contracts now that the tenants are sufficiently alive to, and can protect, their own interests. No one is compelled to take settlement at a particular rent, and tenants generally do not take lands at rents which would be unremunerative.

**Q. 65.** Not in a position to answer this question.

**Q. 66.** I am not aware of any case where the settlement of fair rents in private estates under section 105 of the Bengal Tenancy Act resulted in unfair enhancement.

**Q. 67 to 72.** I am not in a position to answer these questions.

**Q. 73.** I think that the productivity of the soil in western Bengal is generally on the decrease. The reasons are—

- (i) Insufficient rainfall.
- (ii) Silting up of river, and water channels which used to irrigate the lands.
- (iii) Embankments, railways and roads obstructing the flood water from passing over the lands by which a rich deposit of silt was made.
- (iv) Manure available (owing to lesser number of cattle, etc.), not being sufficient.
- (v) Want of good cattle for cultivation.

**Q. 74 to 79.** I am not in a position to answer these questions.

**Q. 80.** The principal grievance of cultivators is that the prices of paddy and jute are too low. If a reasonably fair minimum price were fixed, the condition of the cultivator would be immensely improved. Before 1927, for about three decades the price of paddy and jute was high, and during that period, the cultivators became prosperous, and could and did purchase lands. In fact they offered higher prices than the monied non-agriculturist class, because they would get the whole of the crops, and therefore could pay better prices. But those days are gone with the fall in prices. That is the first and foremost means of increasing their income. But that can be done only by necessary prohibition, tariffs, and imposition of export or import duties (as the case may be). In western Bengal, paddy is the principal income of the cultivator. At one time it sold at Rs. 4 per maund, gur (molasses) sold at 3 or 4 seers to the rupee, but for the last few years gur is selling at 10 seers for a rupee. (This year the price of gur is looking up). At that time the amount of rent was not worth consideration. It could be easily met by the cultivator. There has been a severe falling off in the income by reason of the fall in prices of agricultural produce.

The next point of importance is the question of irrigation in Western Bengal. Owing to deficit rainfall either at the time of sowing or before the paddy becomes ripe, crops are not sown or if sown, the outturn is a small. The principal sources of water-supply in western Bengal are the irrigation tanks, and water channels, etc.

They are mostly silted or choked up. If means could be devised for re-excavating them, the irrigation problem could to a large extent be solved in most areas. The owners of these tanks (generally khas tanks of zamindars, tenureholders and rent-free holders) are now mostly impecunious, and cannot afford to improve them. The provisions in the Bengal Tenancy Act relating to improvement are too cumbrous, and in consequence recourse is taken very rarely if ever to those provisions. But surely means may be devised by which such things can be done by co-operation between the owners, the cultivators and the Government, the latter bearing the cost, at any rate advancing money without interest, and realizing it by easy instalments spread over a number of years, the cultivators voluntarily paying a small cess for taking the water. It can be arranged by District Officers and Circle Officers supplemented, if necessary, by legislation.

I believe the problem of removing the water hyacinth may be solved in a similar manner. But it must be in a systematic and sustained way, and not by sporadic efforts here and there. Prevention of epidemic and treatment of cattle is a matter of great importance to a cultivator. The go-baids (quack veterinary physicians) knew something about the treatment of cattle diseases, but they have nearly died out. The Government should give training to and turn out some veterinary physicians who would be able to act as go-baids. If they are useful it would give an employment to them.

The prevention of floods may to a certain extent be done by raising embankments at proper places, but that is an ambitious problem to be solved by experts and such extensive works cannot be done except by the Government. Jute is Bengal's money crop. The cultivation of other money crops such as cotton should be encouraged. Provision should be made for distribution of better seeds, and manure for improvement of the quality and quantity of the produce, and for the prevention of insects destroying crops and for irrigation, and these should be arranged by officers of the Government. Improved methods of cultivation certainly are important, but the methods must not be costly and should be on indigenous lines. District Magistrates, Subdivisional Magistrates and Circle Officers can do much with the co-operation of influential men of villages and with demonstration work by officers of the Agricultural Department. But the efforts must be systematic, and no schemes should be made which the cultivators are unable to pay for. It is not possible to enter into details here.

Facilities should be given for supplying capital to cultivators who require it many times a year, specially when the cattle die. Co-operative credit societies have not been able to do much as the procedure is cumbrous, and it is becoming increasingly difficult to get other persons

to form "groups" for obtaining loans from such societies. In many places they have been abolished.

There should be a simple method. There was the village mahajan who could be approached by a cultivator at any time for a loan, but owing to the Bengal Agricultural Debtors Act, the cultivator has lost all credit, and he finds it exceedingly difficult, if not impossible, to get loans from the mahajan. The Bengal Agricultural Debtors Act which was enacted for the benefit of the cultivator has ruined his credit, no provision having been made for advancing him loans before or even after the Act was put in force.

Bengal is an agricultural province, and cultivators have been used to agricultural pursuits from time immemorial. Other industries are foreign to peasants. The more they are induced to augment their income by pursuit of other industries, the more they would neglect agriculture. Proper cultivation involves whole-hearted attention to it. After the sowing there is weeding, and then comes the cultivation of rabi crops which requires constant attention, preparing the land, irrigation, etc.

Then there is the harvest season, the reaping of crops, the bringing them from the fields and the threshing them require a good deal of time. After that the sugarcane cutting and pressing operations, and lastly the manure has to be taken to the fields. It is a mistaken notion that peasants sit idle for six months in the year. That may be so where only one crop is grown. But it is not so with the cultivator who cultivates various kinds of crops properly. I think therefore that endeavour should be made to increase the income of cultivating raiyats from land. There are a few months in the year when the peasant is not so much occupied and he may do some other work (home industries). The women can in their spare time weave, and the men also as a subsidiary occupation. But although it would be an encroachment on the business of the weaver, the latter class has dwindled by reason of mills and they cannot supply the needs of the people.

Co-operative farming or co-operative cultivating societies are unsuitable for the Bengal peasant.

Cattle insurance and Crop insurance in the present condition of the Bengal peasants, are not likely to be successful, as they are too poor to pay premiums, but experiments may be made in some particular areas by inducing people to do so.

**Q. 81.** The pressure of population on the land is one of the reasons of the poverty of the agricultural classes, but the pressure is very heavy in East Bengal. In some districts of western Bengal it is not only not heavy, but sufficient local agricultural labour is not available, and

cultivation is being carried on in some localities with the help of Sonthals. I think the main causes are:—

- (1) Low price of agricultural produce.
- (2) Decreased fertility of the soil, with no efforts for improving it.
- (3) Want of sufficient manures and better seeds.
- (4) Insufficient rainfall and want of sufficient irrigation facilities in western Bengal.
- (5) Want of improved methods of cultivation.
- (6) Bad health of the cultivators owing to Malaria, etc., and want of medical help in rural areas, tending to inefficiency of labour.
- (7) Want of good cattle, and with no arrangement for treatment of cattle diseases or prevention of epidemic.
- (8) Want of pasturage in many localities.

If these causes could be removed, I think Bengal can bear partly at any rate the pressure of population. There are still large tracts of uncultivated lands in the Burdwan and Presidency divisions.

I am unable to say what percentage of the population is surplus in respect of the needs of the country, as I have not got the necessary statistics.

**Q. 82.** I do not think that the only means of relieving the pressure, is to divert the populations to large industries by starting Government-aided factories which are not likely to come into existence in a short time, and even if they do, the landless labourers may find employment as millhands, but would not provide sufficient employment for the bulk of the cultivators if their number is very large. I think that the removal of the main causes for the poverty indicated in answer to question 81, may afford relief to some extent.

**Q. 83.** There can be no improvement of agricultural credit, unless Union Banks (for short-term loans) and Land Mortgage Banks, are established by the Government in every union. The agricultural loans now given by the Government, I believe, are given once a year, and for petty amounts. Loans are not granted to an individual; there must be "groups" who are to be responsible for the debts of all persons forming the group. Many cultivators may and do want loans of paddy occasionally for six months in the year and cash also. They used to get loans from the village mahajans at any time they were in need of it, and there was no question of any "group." Each individual could get loan easily. But Debt Settlement Boards have destroyed the credit of cultivators, and mahajans would naturally stop advancing loans.

**Q. 84.** I do not know if 25 per cent. of the gross produce of land goes to mahajans as interest alone. Loans of paddy carry interests at 25 per cent. (Barhi) which are repaid by paddy. But krishans and bhagchasis get advances of paddy from their masters, which are deducted when the paddy is threshed and divided, but they also have to pay interest at that rate. They have not however to go to mahajans.

The only way of stopping the annual drain referred to in the question, is by establishment of Union Banks and Land Mortgage Banks in every union, as stated above. But those banks would not, I suppose, advance paddy loans which many cultivators are in need of, especially during the rainy season, unless special arrangements are made for purchasing and storing grains by Union Banks which is however not a practical proposition.

The only other alternative is to abolish the Bengal Agricultural Debtors Act, and allow the village mahajan system to be restored, by amending the Moneylenders Act, if necessary, providing for fair interest only, but not so to deter mahajans from advancing loans.

**Q. 86.** I am unable to say how far the Debt Settlement Boards have been able to deal with the problem of agricultural debts. So far as I am aware they have been able to afford relief to a few honest debtors though at the expense of the mahajans by granting instalments spread over a large number of years. But there are dishonest debtors and the result has been disastrous to the raiyats as the whole system of agricultural credit has been materially affected, and in some places entirely dislocated. No mahajan would venture to advance loans, when the debtor cannot only delay but practically defeat the just dues of the mahajan.

It is however not only the ordinary debt due to the mahajans but the arrears of rent due to landlords that come under the purview of the Act. The landlord generally sues for rent after four years, and after he has spent money for bringing the suit and getting a decree, and paid the costs of execution, the tenant in some cases, on the day of the sale gets a stay order from the Debt Settlement Board and the sale is stayed. Things go on leisurely and months elapse before an order is made. In the meantime everything is stayed, and the landlord has to pay the revenue or rent from his own pocket, because the Government or the zamindar (as the case may be) does not postpone the time of payment on the ground that the raiyat has gone to the Debt Settlement Board. It is specially hard upon patnidar or other tenureholders, whose tenure is liable to be sold under the Astom sale or rent sale. Even where the application to the Debt Settlement Board, is rejected, the order is not communicated to the Court staying sale at once. It is done leisurely. The Act provides for a number of notices, and the procedure is a

cumbrous one, by which the tenant is enable to delay the payment of the decree for rent, or the rent (which has not been sued for). There is a provision in the Act under which the application before the Board cannot be entertained unless all the tenants join in the application but there is a bill for amendment of the Act in which it is proposed that it can be maintained even when any one co-sharer tenant makes the application.

One result of the Act is to encourage the tenant not to pay rent. He has no incentive to pay the rent so that he may not fall into arrears. He knows that he may with impunity leave the arrears of rent unpaid, because the Debt Settlement Board will make the rent payable in instalments. The landlords would be therefore compelled to sue for rent every nine months. In the long run the debtors would not be benefited by the provisions of the Act.

I think that rents due to landlords should be taken out of the purview of the Act, and the procedure under the Act should be simplified by reducing the number of notices prescribed by it, and provisions should be made for speedy disposal of cases.

**Q. 87.** I think that the suggestion that the Government should establish agricultural banks in every union to finance the agriculturists in times of need with short-term loans, is a good one. The Debt Settlement Boards should not be allowed to function before providing for advancing loans to debtors as they have lost all credit by reason of the Act being enforced.

**Q. 89.** The machinery available to the landlords for prompt realisation of their dues is too costly and cumbrous. The provisions about distress have been repealed in Bengal by the Amending Act of 1928. A tenant who is dishonest or wants to delay the realisation of rent, can easily keep the landlord out of his dues for a very long time, by availing himself of the dilatory procedure in rent suits. He may take any number of frivolous defences, and there is no provision for awarding penal costs against him in such cases if found to be so, in the Bengal Tenancy Act itself, and I am not aware that the provisions of section 35A, Civil Procedure Code (which apply to rent suits), are ever availed of, in rent suits. He may fight the landlord for months and on the final date of hearing he may absent himself in order that the case may be treated as *ex parte* and thus evade payment of the full amount of pleader's fee.

The provisions of section 148 (i), Bengal Tenancy Act, viz., that a written statement shall not be filed without leave of the court is rarely if ever applied. Section 150 which lays down that if the defendant admits that money is due to the landlord for rent, but pleads that the amount claimed is in excess of the amount due, the court shall refuse

to take cognizance of the plea unless the defendant pays into court the amount admitted to be due, is got round by adding a few words that no rent is due, and there is no provision for penalty if the plea turns out to be false. Execution proceedings after decree take a long time to bring the defaulting tenure or holding to sale, and the sale may be set aside by depositing the decretal amount within 30 days. Under the present law application for setting aside the sale may be made within six months from the date of sale or date of knowledge of the sale on the ground of material irregularity in publishing or conducting the sale with consequent substantial injury. A rent suit is generally brought for arrears of rent for 4 years and it will be seen how the dilatory process for realization causes great hardship on landlords. Everything goes on leisurely and every facility is given to tenants to delay payment. Even where the tenant is not dishonest and does not fight the claim, the landlord must go through the procedure prescribed, which is unnecessarily expensive, and the costs allowed by the Court ultimately have to be paid by the tenant. The landlord has to meet the other costs from his own pocket.

I think a simple procedure may be adopted:—(1) The summons may be served through the Union Board within a very short time and a registered post card through the post office. (2) Now the record-of-rights have been prepared, the intermediate changes may be ascertained by issuing notices to landlords and tenants and the records brought up to date. Where a dispute arises as to title or the amount of rent the matter may be referred to and decided by the Civil Court. Future changes may be notified to the Court by the Registering Officer in case of private sales and by the executing Court in the case of sales in execution. (3) Application for execution may be made for sale of the tenure or holding on the lines of patni sales under Regulation VIII of 1819, but only once a year (not twice as in patni sales), the limitation being reduced to one year. (4) Any dispute as to the amount due may be settled in a summary manner as in that Regulation. (5) A sale may be set aside only on deposit of the amount within 30 days of the sale, except in the case of fraud.

The procedure suggested would be simple and expeditious. The landlord may apply for sale on the 1st Baisak for the rent of the previous year, and the sale may take place within a month of the application, with the least possible cost to the landlord and the tenant. There would be no question of the date of sale, as every one would know that the sale would take place on the first day of the next month (as in the case of the patni sales). Where a serious dispute arises as regards title, or any other matter which cannot and should not be decided in a summary manner, the case may be dealt with in the same way as a regular suit.

Facilities should not be given to tenants to pile up arrears of rent, which they are unable to pay with the consequence of being compelled to sell a portion of their holdings or leading to a sale thereof in rent sales. It is really "cruel kindness" to show tenderness to raiyats which may have the effect of arrears of rent growing higher and higher.

I have suggested the general lines on which it may be done. It will not be difficult to settle the details. But of course it would seriously affect the State financially and also the income of the legal profession and of all persons connected with Courts.

**Q. 90.** Recovery of rents through the Public Demands Recovery Act is not popular because it is effective. But I think that if a tenant is compelled to pay rent expeditiously, though it may be considered to be "harassing and offensive" at the time, is really beneficial to him as stated above. I have made my suggestions for the speedy recovery of rent under question 89 above.

**Q. 91.** It may be advisable to remove complications in the revenue laws by revising and codifying them in a more up-to-date and simple form, if it could be done without changing the Permanent Settlement system or the tenancy laws. It is on the faith of these laws that rights have been created, and transfers have taken place, and people have invested money in land, and unless a committee of experts examines the statutes and judicial decisions, the matter should not be touched. It should on no account be undertaken by persons who are not competent to do so, and the matter should not be treated as one in which parties holding opposite views can change the provisions in support of their respective views. If it is done at all, it must be a matter of merely simplifying the statutes to be done by legal and other experts, having nothing to do with policy or party politics.

**Q. 92.** There is no provision in the Patni Regulation (VIII of 1819) for subdivision of a patni or surrender thereof, and the absence of such provisions operate harshly on the patnidars. There may be a number of co-sharers among the patnidars some of whom may be quite willing to pay their shares of the patni rent, but the entire patni would be sold up in case some other co-sharers do not pay. Even if the former saves the patni from sale by paying up the entire amount, he will have to sue the other co-sharers for contribution which is expensive, the defaulter may be involved in debts, in which case the co-sharer saving the tenure from sale cannot recover anything from the former as there is no charge in favour of a co-sharer. In any case there is no reason why the patnidars should not be allowed to surrender.

I think that the provisions of section 88, Bengal Tenancy Act, should be extended to patni tenures, with a minimum limit of the amount of

rent below which the tenure cannot be subdivided, provision being made for payment of a reasonable amount of landlord's fee for such subdivision.

**Q. 93.** The economic effect of the Tenancy Act Amendment of 1938 is certainly highly prejudicial to landlords and to a certain extent to tenants also. The mutation fee on transfer has to be paid even in England. The abolition of the landlord's salami on transfer proceeded upon the assumption that the raiyat is owner of the land, which is one of the very questions to be considered by the Land Revenue Commission.

As already stated the right of unrestricted transfer is the surest way of ruining the raiyat, and the abolition of the landlord's fee which was some check on transfers by raiyats, gives facilities to the raiyat to get rid of his holding.

The abolition of the landlord's right of pre-emption deprives him of his right to oppose the thrusting of an undesirable tenant against his will. It is prejudicial to the raiyat also. The conferment of the raiyat of pre-emption upon a co-sharer of the holding is good so far it goes. But in most cases, co-sharers in holdings, who are impecunious, would not be able to exercise the right like the landlords. A transfer at an under-value could be prevented by the landlord exercising his right. The exercise of such right has not been extensive, but it is the fear of the landlord stepping in, that reduced the chances of the transferor being defrauded and kept the price of the lands maintained at the normal level.

I am unable to estimate the loss of landlords' income owing to the abolition of transfer fees, but it is very considerable where the zamindari is in khas possession. The patnidars and the permanent tenure-holders are the worst sufferers because the margin of their profits is generally small, and the landlords' fee was the principal source of their income.

**Reply by Dr. Radha Kamal Mukherjee, Professor of Economics & Sociology, University of Lucknow.**

**Q. 1.** The description, though exhaustive of the duties of the zamindars is hardly fair since the object of the Permanent Settlement was stabilisation of revenue demand in Bengal to enable Lord Cornwallis to establish order and security and prosecute his wars outside Bengal. Neither the injustice to the Bengal raiyat nor the welfare of the zamindars as "proprietors" loomed large in the picture at the time of the Settlement.

The Permanent Settlement obliterated the khudkasht raiyat's customary rights and also contributed to the disintegration of the village community, which guaranteed these latter. The raiyats had the right to hold at pargana rates, which customarily governed all rents. They had also a number of communal privileges in regard to their homestead plots and to the pasture and forest lands, to the bundhs, water reservoirs, irrigation channels and fisheries, to the services of the village officials and servants, and to the timber and fuel of the fields and forests. If these customary rights had been maintained much of the later tenancy legislation would not have been necessary.

**Q. 3.** The zamindars on the whole failed to perform the functions expected of them at the Permanent Settlement. Among the reasons are (1) the harsh operation of the Sunset Law and outright sale of many ancient raj and landlord families, (2) the loss of touch between the zamindars and the actual cultivators due to the process of subinfeudation, which has not terminated merely with the patnidars and ijardars, (3) the decay of the village and preference for the social amenities of the city, which promoted absenteeism among the zamindars.

**Q. 4.** There were a few feudal landlords and farmers of land revenue who might have claimed the status of actual proprietors but customary rights of raiyats prevented rack-renting and eviction. But the zamindars were first declared to be the "proprietors of the soil", "landholders", "landowners" in the Permanent Settlement. Every prejudice of Lord Cornwallis and others, arising out of British notions of landholding and the relations of landlord and tenant in Great Britain came to be entirely on the side of the zamindars who since began to look upon the "raiyats" as their "tenants".

**Q. 5-8.** The annulment of the Permanent Settlement would not be a breach of pledge because the avowed intention of the Settlement, viz., the amelioration of condition of tenants as embodied in the first paragraph of the famous declaration was not carried out by the zamindars. Further, not merely were tenants no parties in the agreement but for several decades their rents were enhanced and they were

ejected arbitrarily by the zamindars, who profited by the special rules made in favour of auction purchasers. Thus the tenants were denied the security, which they enjoyed according to ancient custom and which it never was the intention of the Government to abrogate at the time of the Permanent Settlement.

The State or the community can no longer sacrifice its share in the growing values of land, which are the outcome of natural expansion of population and increase in cultivation and of the development of public works undertaken by the State. The increase in land revenues is to be attributed more to the enterprise and toil of tenants under conditions of peace and security assured by the State than to any initiative, investment of capital and good management of the zamindars. The welfare of the community, of which the most considerable section is represented by the actual tillers of the soil necessitates elasticity of public revenue and expenditure. Further the Permanent Settlement, which limits the share which a particular section of the community, viz., the zamindars, is called upon to contribute to the general revenues, results in an unfair tax burden on all other classes in the community. The present inequality in the distribution of the tax burden as between landholders of different classes and between the landholders and other classes in society has been a serious hardship on the masses of people, represented by small and impoverished tenants, while the progress of agriculture, education and sanitation has all been lamentably retarded due to lack of revenue. In Bengal the Government is being constantly asked to tackle new problems of river management, flood control, water-logging and malaria, unknown to other provinces, but its revenue is inelastic. In Bombay, for instance, the land revenue is double that of the revenue derived from income-tax, while Bengal's land revenue is only half and her incidence of total rates and taxes less than one-third of the latter.

The absence of an income-tax on agricultural incomes and a death duty perpetuates the injustice that the superior landholders contribute a relatively small quota of their surplus towards the State, while at the other end of the scale the small and impoverished tenants often find their entire surplus swept away by rent, which tends even to trench upon their bare minimum of subsistence. There is a fundamental difference between the reward of labour which the raiyat and actual tiller of the soil expect from that which the zamindar expects from the investment of his own savings. There is a far greater social injustice involved in an encroachment on the direct return to one's present toil than in the indirect return to past labour or saving, which implies a considerable surplus somewhere and at some time.

**Q. 9.** In some districts in eastern and northern Bengal the protection given by stronger and better landlords has offered facilities of extension of cultivation; while the process of subinfeudation itself has

helped towards the reclamation of forests and swamps which made it impossible for single landlords to supervise the settlement or to collect rents over a large area. But such reclamation was motivated by the landlord's desire to increase the margin between revenue and rent collection.

In other areas the zamindars have not as a class contributed much either to the extension of land or to its permanent improvement. As a matter of fact in considerable portions in Bengal their apathy is responsible for the disrepair of tanks and irrigation channels, while their appropriation of village commons, meadows and pasture lands for settlement among the raiyats largely accounts for the decline of the breed efficiency of cattle to the detriment of cultivation.

Not merely absenteeism but the elaboration of the patni, ijara and thika systems are responsible for the superior interest losing touch with the tillers altogether. Both subinfeudation and absenteeism, which have been the outcome of a variety of social and economic circumstances, have contributed towards inefficient management of estates and loss of interest of the zamindars in the improvement of land or economic condition of tenants.

**Q. 10.** The Permanent Settlement has on the whole led to the disadvantage of the tenants which has been aggravated by both subinfeudation and absenteeism.

**Q. 11.** Yes.

**Q. 12.** Yes.

**Q. 13 to 15.** I suggest the following method for buying off the zamindaris and tenures and establishing direct dealings with raiyats who would pay rent to Government and buy holdings from landlords, paying for them in easy instalments:—

(1) The Government would merely guarantee to the zamindars the annual payment of net rents (reduced to economic levels) and security for themselves and their heirs.

(2) The Government would settle the tenantry on the estates with restrictions of sale, mortgage or transfer and prevent such holdings being reduced lower than the economical limit.

(3) The Government should fix a certain multiple of the rent as the price of the land which the tenants would pay to the landlords through Government by easy instalments for acquiring proprietary rights in their holdings.

(4) The Government should advance money to tenants through co-operative societies and land mortgage banks to aid them in the acquisition of proprietary status and starting work as cultivating owners without any serious handicap of indebtedness.

(5) The Government should first float a land acquisition loan for financing tenants through land mortgage banks to enable them to acquire ownership status.

(6) The tenantry would pay rents to Government, scaled down to economic levels, and interest and a quota of the principal borrowed for the purchase of rights in land.

The Government should establish a special Land Acquisition and Mortgage Department on the lines of the Reich Government which has bought off estates in East Prussia and Bavaria from the landlords, and obtained a portion of the compensation cost from owners of "family holdings" in easy instalments extended over a reasonable period or in the form of annual rents. Such procedure is exactly applicable to Bengal conditions to-day, and should be studied carefully and in every detail to facilitate the transition from the zamindary system to cultivating ownership.

**Q. 16.** The purchase of zamindaris by cultivating owners would diminish the social distance between the aristocracy and the peasantry and eliminate the social advantages of investment of capital in land, which has been detrimental to industrial development in the province. A strong and productive middle class will also emerge attached to the land and capable of using it scientifically.

**Q. 17.** The under-tenureholders and lessees should also be bought off though at a price less than paid to zamindars, and merger may be made obligatory, which will eliminate a large number of existing tenures in the districts of eastern Bengal.

**Q. 23 to 26.** Occupancy right is the creation of British law. It was reserved for the actual tillers of the soil, but has been misused, due to inadequate restriction of sub-letting, mortgage and transfer resulting in the creation of lower and unprotected grades of tenants. Occupancy status should now be restricted to the actual tiller of the soil.

Drastic restriction of sub-letting is necessary. A raiyat who sublets his holding for more than three agricultural seasons continuously should forfeit his occupancy right, which would belong to the actual tiller of the soil; whether under-raiyat or bargadar. The occupancy privilege thus would belong to the genuine raiyat class.

Further, no tenant should have the right of occupancy in so much of his holding which cannot be tilled by him without habitually employing hired farm hands.

The principle of cultivation of land with one's toil must be reasserted as the criterion of occupancy privilege, and neither habitual employment of hired labour nor leasing should be permitted. This will be in line with advanced land legislation in Germany and other countries,

which have sought to establish small cultivating family ownership. The abolition of the long array of middlemen, which has grown behind the security of the legally recognised raiyat in Bengal, can be effectively achieved only in this manner.

**Q. 29 & 30.** The number of bargadars and bhagchasis has been increasing for several reasons—

(1) The middle class in Bengal which do not resort to cultivation advance money to raiyats and purchase occupancy holdings resettling the raiyat on a produce rent for their convenience.

(2) The increase is especially noticeable in such areas in Midnapur, Dacca, Faridpur and Tippera where the upper Hindu castes dominate and have resorted to agricultural money-lending. Cultivation through chakars or hired servants is more irksome than bhagbili, and as the middle class came in possession of land it is the latter system that flourishes.

(3) The more well-to-do raiyats have in prosperous years increased the size of their holdings and practised sub-letting. Some agricultural castes ape the manners of the bhadraloks and are refusing to drive the plough, and have acquired the habit of employing adhiars as soon as they acquire more than 12 to 15 bighas of land. This is marked in Western Bengal.

(4) The increase of transfer of holdings to non-agriculturists, marked in the recent years of agricultural depression, has also led to the rapid and persistent spread of produce-paying tenancies. While in the past the rise of agricultural prices initiated the system of produce rents, so that the middle and money-lending classes could reap its full benefits, the depression has facilitated the transfers of raiyati holdings to their hands, and the spread of produce-sharing in recent years.

**Q. 31.** The area normally held by the bargadar is small and scattered. Raiyats have been sold off and are often bargadars in slices of holdings which formerly belonged to them. Where there is heavy population pressure and great competition for land, small tenants and agricultural labourers clamour for and obtain barga. This leads to rack-renting and imposition of a salami.

**Q. 32.** All bargadars whether they pay rent in so many seers or in fixed proportions of the produce should obtain the right of occupancy, provided that they have been in continuous possession of holdings for 5 years in 1938, or have homesteads in the village. From the peasant point of view there is no distinction between rent in cash and rent in kind, or between peasants who pay a fixed amount of produce and those who pay a definite share as fixed by local usage. All should acquire the right of occupancy.

**Q. 33.** The barga system is economically unsound and agriculturally disastrous. Its extension could be prevented by (a) drastic restriction of sub-letting, mortgage and transfer, (b) restriction of the area of holding which an occupancy raiyat can cultivate without the importation of permanent outside labour. This form of restriction is true of the so-called "family holdings" in Germany to-day. Otherwise the recognition of bargadars as occupancy tenants might lead to their wholesale ejection by the occupancy raiyats, who would cultivate by means of hired labour.

**Q. 34.** Here and there some zamindars may keep the khas lands in their direct possession, but on the whole the accrual of occupancy status will be beneficial to the bargadars, and what is of greater economic significance will lead to better soil utilisation and to social peace in the countryside. The bargadars, depressed and land-hungry, represent to-day an inflammable material which awaits ignition from an agitator into a devastating flame of agrarian revolution. Communal antagonism also feeds the ire of a revolution.

**Q. 35.** Half and half; but the seeds and manures should be supplied by the superior interest. A maximum limit should be fixed by law, as in Bihar (18:22), and share agreements standardised, as in Spain and Italy. The landlord or superior interest must take up the responsibilities of scientific farming, supply of improved seeds, implements and manures, and cottages for the metayers to live in.

**Q. 36.** Wages in kind for agricultural labourers, who are on a yearly contract are 8 to 10 maunds of rice a year, 2 pairs of cloths and 2 napkins, together with other small requisites. In Birbhum the annual wages of the day labourers vary from Rs. 8 to Rs. 24 together with 6 or 8 bish of paddy. In Burdwan wages are much higher. For reaping the rate often found is 1 bundle to every 10 bundles harvested. Wages paid in cash vary from 4 to 5 annas in western and central Bengal to 6 to 9 annas in East and North Bengal.

Since there is enforced idleness for agricultural labourers during certain months of the year, their economic position is inferior to that of the bargadars and under-raiyats. Unemployment of agricultural labourers is especially acute in eastern Bengal, where they have to live for some months on sweet potatoes, to the exclusion of rice.

**Q. 37.** Occupancy privileges, which are intended for the actual tillers of the soil, should not be permitted to be captured by the middle and money-lending classes. Thus the right of transfer should be restricted to cotenants or to persons in the special line of heirs as defined by law (as in the Central Provinces). Further no tenant should have the right of occupancy in so much of his holding which is

above the size of the economic holding and cannot be cultivated by him or his family without permanently importing hired labour.

**Q. 38.** The minimum size of an economic holding would differ in different agricultural regions in Bengal. On an average 4-5 acres would represent an economic holding.

**Q. 39.** Yes.

**Q. 40.** Legislation should compel landlords and tenants to accept restripriment when 66 per cent. of the cultivators of a village desire it.

**Q. 41.** Yes.

**Q. 42.** The limit of accumulation of large areas can be secured by insisting that holdings cannot be acquired beyond the size which cannot be cultivated by anybody without permanently importing hired labour or by bhagbili under approved agreements.

**Q. 43 & 44.** The evils of subdivision of holdings have been so grave that I could consider a change of the laws of inheritance as the major remedy. On the death of head of a family, a preferred heir should succeed to the undivided holding, the education of the other heirs and marriage of sisters being a charge on the holding.

**Q. 46.** No.

**Q. 47.** Yes. It was the intention of the Government to render the rent payable by the raiyats precisely as stable as the revenue payable by the zamindars. The amount of rent was not to exceed the established pargana rates for different crops grown on the land (*vide my Land Problems of India*, p. 313); but the instructions of the framers of the Permanent Settlement could not be carried out as (a) the Collectors, few as they were, could not cope with the task; (b) the district kanungoes were abolished; (c) the old machinery of district and village registers was permitted to be destroyed; and (d) the apprehension of the Government that an enquiry into the rights of the raiyat might create suspicion among the zamindars that the revenue assesment was not really intended to be permanent.

**Q. 48.** Lord Cornwallis's intention is clearly indicated in the legislative right he gave to the cultivator to demand a dictatory lease or patta specifying the rent and in his statement that many regulations would be necessary for the further security of the raiyats, (Hunter: Bengal MSS. Records, Vol. I, Chapter V) and by the proposal of holding an exhaustive, minute enquiry for determination of the

pargana rates, which was held at abeyance because of the pre-occupations with the wards. Clause (e) also gives the general ground for the supposition that rents were also proposed to be stabilised.

**Q. 49.** No.

**Q. 50.** No.

**Q. 52.** To determine fair and equitable rents it is necessary to initiate a more careful and intensive enquiry into the costs and profits of agriculture than ever yet has been undertaken in Bengal. The State, in estimating the net produce or economic rent, should make a liberal allowance for—

- (a) the true and full expense of cultivation;
- (b) the labour expended by the cultivator and his family;
- (c) the depreciation of cattle and agricultural implements;
- (d) the interests on seasonal borrowings for cultivation;
- (e) insurance against the normal risks of cultivation due to the precariousness of the seasons.

The Central Provinces Settlement Act of 1929 incorporates these economic principles which should guide the rent policy of Bengal.

**Q. 53.** The majority of rents may be described as lump rents which are governed by the competition for land, stage of agricultural settlement and development and the social status of tenants. Rents paid by the under-raiayats are the best index to competitive rents; while in practice other rents vary for lands of similar agricultural conditions and depend upon the economic position of tenants, the over-crowding of agriculture and the power of the landlords to levy illegal imposts (abwabs) which pitch rents higher than economic rents.

The poorer, weaker and lower-caste tenants pay usually higher rent-rates. Besides the above the zamindar instead of pitching up the rent in the case of a surrendered, purchased or abandoned holding often prefers to take a premium, the amount of which depends upon the population pressure and the consequent competition for lands.

Under-raiayats as a rule hold minute, toy plots. Since the rent-rate is based on so many rupees per bigha, the incidence of rent for the holdings of under-raiayats becomes heavier the greater the disadvantages of cultivation due to fractionalisation and scatteredness.

**Q. 55.** The principles followed in temporary settled provinces should be followed. This could be done without preparing a new record-of-rights.

**Q. 56.** No.

**Q. 57.** 12 years.

**Q. 58.** No.

**Q. 73.** Soil erosion in the western districts and the absence of river spill in the central districts are responsible for the decline of soil productivity in Bengal. Adequate steps to improve soil fertility have not been taken.

**Q. 80.** Besides the means suggested others may be mentioned—

- (1) expansion of secondary crops like sugarcane, hemp, tobacco and groundnuts;
- (2) development of agricultural industries;
- (3) improvement of marketing organisation;
- (4) fruit farming;
- (5) dairying.

**Q. 86.** There has been almost complete stampede of credit from the countryside as a result of the operations of the District Boards. The Bengal Agricultural Debtors Act has thus hit the mahajan but hit the tenant harder. Immediate provision of credit through the rehabilitation of the co-operative credit movement and introduction of Land Mortgage Banks are indispensable.

**Oral evidence of Professor Radha Kamal Mukherjee, M.A., Ph.D., Professor of Economics and Sociology, Lucknow University on 15th March 1939.**

In reply to the Chairman, Professor Radha Kamal Mukherjee said as follows:—

"The Permanent Settlement was put into operation for reasons of revenue, and deprived the khudkasht raiyats as well as other raiyats of some of their established rights. Originally the khudkasht raiyats had rights not only in their land but in forests, grazing lands, tanks, water-courses, etc. Landlordism was the beginning of the decline of the community system of agriculture which was in operation when the Permanent Settlement came into force."

At the time pargana rates were fair rates as there was no competition for land. In some provinces the pargana rates were a share of the produce and not a fixed sum of money, but there is no evidence to show what they were in Bengal. The under-raiyats pay an average rent of Rs. 6-3 per acre. The Hindu law and Akbar's system regarded 1/5th of the produce as a fair share. As regards the rate of raiyati rent, I do not regard Rs. 3 as excessive as a general rule, but Rs. 3 is excessive if the holding is under the economic size: very many holdings are under the economic size and therefore cannot afford to pay this rate of rent.

Government should pay compensation to zamindars if it is intended to abolish the zamindari system. According to my scheme, this will take the form of a permanent annuity. In calculating the amount of this compensation, the following things will have to be taken into consideration :—

The difference between the rent roll and the revenue should first be calculated after reducing all unfair rents to an economic level. Government revenue and cost of collection, cess and other expenses will then be deducted from this figure which will now be the pension payable to the zamindars.

Government should then settle tenants on the land. The estates, when purchased, should be divided among the tenants in such a way that each holding will be of an economic size. Fragmentation will be forbidden and the right of transfer very much restricted. In the matter of inheritance, the law will have to be amended, by introducing the system of preferred heirship. This would mean the displacement of a very large section of the agricultural population who will have to be accommodated in large-scale and small-scale industries—preferably cottage industries.

The raiyats who till their own lands would then be given proprietary interest subject to the restriction mentioned before. They would then pay to Government the economic rents of their holdings plus something above this for the first 15 years. This something will be a small proportion of the actual rent, and will be paid by them in consideration of their receiving proprietary rights, and will be used to meet the expenses of the scheme and for effecting agricultural improvements. I do not think that the raiyats would object to paying this money for the establishment of agriculture on an economic footing and for the acquisition of full proprietary rights. To enable the raiyats to establish themselves on a sound financial footing I would recommend the establishment of agricultural land mortgage banks and co-operative societies as in Prussia and Bavaria.

State finance will improve if agriculture becomes more profitable. Progress will be fairly rapid if legislation is set on foot to tackle simultaneously all problems connected with agriculture.

Tenures will be bought at prices lower than those paid for zamindaris. This is because tenures are inferior interests. There are precedents of payment of very small compensation in Poland and Rumania, but political rather than economic factors dominated the acquisition of estates to there.

In connection with barga tenancies I have noted the following in course of my investigations:—

In East Bengal the man who lets out his land in barga exacts salami varying from Rs. 3 to Rs. 5 per bigha. He can do this as there is competition for barga holdings. I found this also in the district of Champaran. If barga tenancies are to be, I would give occupancy rights to those who have been in cultivation for 5 years dating up to some past year before the passing of the Act in order that when the matter comes up for consideration it will not lead to the eviction of bargadars by those who have let out their lands in barga, to prevent them from acquiring occupancy rights.

Produce rents should not exceed one-half. The letter in barga should be compelled to supply seeds, manure, cattle, etc., I have no objection on principle to produce share in rents being paid to Government, but it is my opinion that the barga system is economically unsound.”

In reply to the Maharajadhiraja Bahadur of Burdwan, Professor Mukherjee said as follows:—

“At the time of the Permanent Settlement khudkasht raiyats were actual cultivators and not tenureholders. I do not think it is likely that the raiyats instead of being ejected, voluntarily surrendered the holdings which they were cultivating at high rates of rent, in order to take settlement of jungle lands at lower rates of rent, offered by the same landlord or other landlords, owing to competition among zamindars for tenants. My reasons for this view are that the raiyat is very much attached to his ancestral land. It might conceivably have been the case in East Bengal where population was thin and competition for tenants was acute, but it is not the case in West Bengal where population is thick and competition is for land rather than for tenants.

In connection with my statement that subinfeudation has adversely affected the condition of the raiyats, I have to state that I have not compared status and condition of raiyats in the permanently settled area with those of the raiyats in the raiyatwari area.

Occupancy status was a creation of British legislators, though this institution is not found in British law. The legislators did not apply British institutions to Bengal but occupancy status is their conception of the custom prevalent in India.

In calculating the economic rent of a holding the following things are to be taken into consideration :—

- The expenses of agriculture;
- The proximity of the market;
- The caste of the agriculturist; and
- The size of the holding.

By re-sorting the holdings, agriculture will be made profitable and full economic rent may be obtained. Due to the fact that neither Government nor the zamindars set on foot any schemes to prevent agricultural catastrophes, agriculture has undoubtedly deteriorated. The State cannot afford to set on foot ambitious schemes for agricultural improvement, as it lacks funds owing to the inelastic revenue system which it has created. I admit that zamindars also could not set on foot very large projects but they might very well have spent money on excavation and re-excavation of tanks.

There are very many practical difficulties in the way of the imposition of death duties in India, owing to the Hindu and Muhammadan laws of inheritance, and I think this is all the more reason why big landlords should, if possible, pay their share in other directions.

In paying compensation to zamindars over and above the economic rent for 15 years, the agriculturists would get for their money freedom from oppression by the zamindars and also a proprietary status on their lands.

In the whole of the scheme, I have considered the interests of agriculture in general rather than those of tenants or landlords in particular.

Soil erosion is responsible for decrease in productivity of the soil in a large part of Bengal. This is particularly the fact in Birbhum, Bankura, Midnapore and part of Burdwan. I attribute soil erosion largely to disafforestation. If re-afforestation is to be effected, I do not think there will be any need to encroach on land which is at present under crops, as there is a lot of waste lands in these districts.

Much damage has also been done by the deposit of sand, due to fluvial action. This can be largely obviated by re-afforestation in Chotanagpur.

I am a believer in restriction of population."

In reply to Mr. B. K. Roy Chowdhury, Dr. Mukherjee went on as follows:—

The rights of khudkasht raiyats were not definitely taken away by the Permanent Settlement but died out as a result of neglect. The creation of occupancy rights was an attempt to restore the rights of khudkasht raiyats, I have no documentary evidence to show oppression eviction or enhancement but I consider that the tenancy legislation enacted since that time was intended to put down oppression as noticed by executive officers and legislators from time to time. Rack-renting as a result of competition for land occurred chiefly in West Bengal.

In my remarks about the inelasticity of the land revenue in Bengal, I realised that Bombay has a larger area than Bengal but I passed my remarks to show that income-tax in Bombay is so much smaller in proportion to the land revenue than it is in Bengal. The elasticity of the land revenue resulting from the purchase of zamindari interests would enable Government to set on foot schemes for rural improvement. I have not yet worked out any scheme of my own. I undertake to submit figures in that connection to the Chairman.

I do not wish occupancy raiyats to be given of an area larger than can conveniently be cultivated by one family because I want to put a stop to sub-letting by big raiyats and to employ permanent hired labour. I wish to give occupancy rights to families actually cultivating with their own hands. I would employ the 29 lakhs of hired labourers who would be thus displaced in industry. I realise that the abolition of barga tenancy would mean that widows and minor children would lose their rights of occupancy if they were unable to cultivate themselves, but they will have to be sacrificed to the public good. I realise that in providing economic holdings to those who are left on the land, a fairly large displacement of population will take place. This section will be provided for by the expansion of industry that will ensue. The prestige attached to landownership by those who would invest their money in land and receive interest has in the past deterred capitalists from investing in industry and has accounted for Bengal's industrial backwardness. The diversion of savings from investment in land to investment in industry will provide the industrial expansion requisite to accommodate those displaced by agrarian reforms.

In reply to Sir F. A. Sachse, Dr. Mukherjee went on as follows:—

In the days of the Permanent Settlement, the village community and individual khudkasht raiyat had rights of transfer but land could not be sold by khudkasht raiyats to outsiders. Custom of transfer to all and sundry crept in since then. I would use land acquisition and land mortgage banks in order to enable tenants to buy lands only to make their holdings economic. It would take about 10 to 15 years.

The process would be expensive but it is so necessary that I regard it as indispensable. The inferiority of Bengal agriculture in comparison to that of Japan is due to lack of good seeds, the fact that night-soil is not used as manure, and to the greater fragmentation of holdings prevalent in Bengal. I do not think the land in Bengal is less fertile than that of Japan or that the Bengalees are less industrious than the Japanese. The figures shown in my book "The Changing Face of Bengal", illustrating the decrease of land under crops in West Bengal as opposed to East Bengal are found in Government statistics. I have no reason to doubt them. There has on the whole been a decrease in area under crops. If these figures are wrong, the Agricultural Department is to blame. In legislating about share tenancies, I would not only advocate legal restrictions being put on the Statute Book governing conditions of barga, but I would also introduce standard contracts as it done in North Italy. Regarding increase in elasticity of revenue which would result from my scheme, it would not be manifest so much in extra receipts from land revenue itself as in increase in receipts on general heads of revenue resulting from the increased purchasing power of the raiyats that would result from the consequent improvement of agriculture.

I do not envisage collective farming. The essential is redistribution of land and reconstitution of holdings. Peasant proprietorship, I think, would certainly result in increased productivity of land.

In reply to Khan Bahadur M. Hosain, Dr. Mukherjee went on as follows:—

Under my scheme, the compensation paid to zamindars will be in the nature of a perpetual pension as I doubt whether capitalisation could be afforded at once though it might be undertaken later when Government finances improve. Rents reduced to an economic figure may amount to say, 7 to 8 crores. What Government will gain will be the increase in general revenue due to increase in the purchasing power of the raiyats. I do not envisage Government making any actual direct financial gain by buying out the zamindars. I think that the sense of responsibility induced in raiyats by the magic of ownership will be a great gain to agriculture. I do not think State landlordism is desirable as this will diminish the sense of ownership of the raiyats.

Under my scheme, after fixing economic rent I would not exclude altogether subsequent revision but revision of rents would take place only after a very long period, say, 40 or 50 years. This is not the practice in raiyatwari mahals where revision is frequent and enhancement considerable. Consolidation would be effected by compulsory acquisition by Government on behalf of those raiyats who while their holdings are smaller than the economic size are otherwise well-to-do and can afford to purchase. In the meantime, uneconomic holdings

will be excused payment of rent. At the time of the Permanent Settlement, Lord Cornwallis, did not in my opinion contemplate any enhancement of rent.

In reply to Khan Bahadur Hashem Ali Khan, Dr. Mukerjee went on as follows:—

I consider that the condition of peasantry in Germany is better than that in the past and in Bengal to-day. Fractionalisation of holdings is responsible for the miserable condition of Bengal agriculture. The laws of inheritance will have to be revised. A certain amount is also attributable to the great increase in population. In Germany I think that political factors rather than economic considerations were responsible for the abolition of landlordism. I think the condition of peasantry will be improved by the abolition of the Permanent Settlement. The contract of the Permanent Settlement is not sacrosanct but has got to be revised, but I am quite firm that compensation must be paid. It would be a rude shock to credit and to the entire economic structure if those who have invested their savings in land since the Permanent Settlement were to be expropriated. I do not recommend a policy of expropriation, because I consider that it would be morally indefensible and economically inexpedient. The problem of indebtedness of the cultivators to-day will be solved by the establishment of Land Mortgage Banks. There was no expropriation in Germany at the time of breaking up the estates. I do not agree to a policy of dispossession by the State and payment of malikana at the rate of 10 per cent. of total collections nor would I agree to assessing the profit on the difference between Government revenue and rent roll at the time of the Permanent Settlement because much capital has been invested in land since then. I think that the cultivators will be very glad to accept my scheme. One of my chief objects is to abolish permanent importation of hired labour. The preferred heir who holds the farm will pay for the education of his brothers and for the marriage of his sisters.

There will be no bargadars under my ideal scheme, but if they are to be there, they will remain as I have indicated before. Maximum rate of rent will be fixed for them they will pay no salami, and there will be standardised agreements as regards the supply of manures, seeds, agricultural labour, etc., I consider that the grant to them of occupancy rights would induce them to cultivate more efficiently.

In reply to Dr. Radha Kumud Mukherjee, he said as follows:—

I consider that many khudkasht raiyats were evicted after the Permanent Settlement. I wish to point out a typographical error in my answer to the questionnaire. The word "total" should read "local" before the words "rates and taxes".

I wish to eliminate rent receivers not because I attach any stigma to rent receiving in itself but as a matter of economic necessity. I think it essential that the cultivators should have a sense of responsibility attached to ownership and I think that rent receivers should learn to invest their money elsewhere. Investment of money in rent receivers' interest does not mean investment of money in agriculture. I do not agree to the figure of Rs. 3 as the average rate of raiyati rent in Bengal. I consider that this is higher than the rent in Madras and other provinces. I would like an intensive survey of rents in Bengal to be made. I consider that in reference to Government share of the produce of land, rent is higher in Bengal than it is in Madras. An offensive all along the line is required in the matter of agrarian legislation. It will be of no use to buy out the landlords if we do not at the same time reduce fractionalisation and legislate for general reform in all matters connected with agriculture. In the Central Provinces, the rent payable to rent receivers has been drastically reduced and sub-letting for more than three seasons prohibited.

**Reply by Dr. Sarat Chandra Basak, Senior Government  
Pleader, High Court:**

**Q. 11.** I think there is a good deal of force in grounds 1, 2 and 3.

**Q. 12.** Yes. On first 3 grounds stated in question 11.

**Q. 13.** I will advocate the total abolition of the zamindari system—the reason being the zamindari system is unsuited to the present day conditions and I shall further support my proposal on the first 3 grounds of question 11. My proposal is that all grades from zamindars up to the tenureholders just above the actual occupant of the soil should be abolished. In other words there should be no one intervening between the Government and the actual occupant of the soil and the latter will hold directly under the Government. All attempts for subinfeudation henceforward should be prohibited.

**Q. 14.** Yes. I would give compensation to the zamindars and other tenureholders under them. Taking the facts from question 7 it appears that there is a difference of 9 crores in the permanently-settled area between the rent roll of the time of the Permanent Settlement and the last record-of-rights. If the Permanent Settlement is abolished zamindars and the tenureholders together will lose about 9 crores every year assuming that there is cent. per cent. realisation. I will assess the compensation in the permanently settled area at 10 times (i.e., 10 years purchase) 9 crores, i.e., 90 crores. I should give the compensation in the form of 3 per cent. Bond free of income-tax. I will also do away with the temporarily settled estate for which I will assess compensation at 5 years purchase.

**Q. 15.** The 3 per cent. Bond, free of income-tax, should be redeemable after 30 years and I shall also provide for a sinking fund of 3 crores a year. The result would be that for 30 years the Government will get about 9 crores on this account and after 30 years the income of the Government will be 12 crores.

**Q. 16.** The artificial importance of the zamindars and talukdars and other tenure-holders will come to an end and the social position of the really capable men would be enhanced. The people belonging to the caste or class of landholder will be appraised at their true worth.

**Q. 17.** Yes. This change will benefit the country as the resources of the Government will be immensely increased and funds for nation-building departments will be available.

**Q. 18.** A Compensation Court will have to be established in each district to deal with and apportion the claims of the different degrees of tenants. I will suggest that some of the Subordinate Judges may be vested with this power and that will not in any way lead to over-work of the Subordinate Judges, inasmuch as there has been a great fall in the litigation in these days. If this suggestion is accepted it will not lead to any substantial increase of costs; moreover such compensation courts will be in the nature of things temporary ones.

**Q. 19.** I should think the raiyats would prefer to come under Government and pay rent to it direct although it may be that in some cases khas mahal tenants have been assessed at a higher rental than their neighbours. In times of scarcity and other unforeseen circumstances the Government can and will help them by remission of rents or otherwise. Moreover the Government will certainly give more attention to improve the conditions of the tenants under them than the zamindars.

**Q. 20.** Yes. The creation of permanent tenures has led to greater exertions of the raiyats and has lowered them in social position, so much so, that socially the actual cultivator is looked down by all other sections.

**Q. 21.** With regard to the economic position of the province the effect would be most beneficial as money would be forthcoming for the immediate needs of the province without further taxation. As regards the economic position of the tenure-holders themselves I think having regard to the present condition it will benefit them. The difficulty of realising rents has been felt very acutely and the economic position of the tenureholders is indeed very bad. If my proposal be accepted they will be assured of a fixed income and after 30 years they will have a large sum of liquid cash which they will be able to insert in the best way possible. With regard to their social position they will lose to some extent, but in these days this artificial social position should be done away with.

**Q. 22.** If such homesteads and khas lands (lands actually in their occupation) be included in their zamindaris and tenures, then they will have rights of occupancy in them. In other words their interests would be permanent and heritable but the rent would be enhancible. If, however, their homesteads and khas lands, i.e., lands in actual occupation be held outside their zamindaris and the tenures then if they have got already a mokarari right (right to hold at a fixed rent) then that right will not be interfered with. The zamindars' and tenure-holders' khas lands can be found out from the records of rights which have been prepared.

**Q. 26.** I will give occupancy right to all actual cultivators of the soil. With regard to (a), the tenants would have occupancy rights in the parts which are actually cultivated by them and in the parts which have been sublet by them I will place the tenants in the category of the tenure-holders and I will give occupancy right to the sub-lessees in respect of lands in their actual cultivation. (b) The raiyats who have sub-let their entire holdings would be placed in the category of the tenure-holders and the rights of such raiyats will be purchased by the Government and the sub-lessees will have occupancy rights directly under the Government. In both (a) and (b) I have assumed that the sub-lessees have got permanent rights or occupancy rights.

**Q. 27.** I am not in favour of giving rights of occupancy to non-agricultural tenants. I shall leave non-agricultural tenancies to be governed by the Transfer of Property Act.

**Q. 32.** By bargadars I take it the meaning is those who have barga tenancy. I do not include labourers in the category of bargadars. In my scheme the bargadars who are actual occupiers of the soil will have the right of occupancy.

**Q. 37.** First part—My answer is, yes.

Second part—My answer is, yes.

Third part—My answer is, yes.

Fourth part—My answer is, yes.

It is quite practicable to restrict the transfer to agriculturists only if it is provided in the statute that such transfer will be recognised by the Government if it is in favour of the agriculturists only.

**Q. 55.** I would recommend that the present rents should be assumed to be properly assessed. It will not be advisable to have uniform basis for re-adjustment of rents throughout the province as the productivities and the other facilities will have an important bearing upon the rental and a wholesale re-adjustment will lead to a great increase in litigation either before Civil or Revenue Courts.

**Q. 57.** The rates of the rent should be re-examined from time to time at an interval of at least 20 years.

**Q. 64.** Yes.

**Q. 67.** Yes.

**Q. 69.** Yes.

**Q. 86.** First part—No.

Second part—Many.

The constitution of the Board is faulty. It was a mistake to give the powers to the Members who are under local influence and who work without remuneration. The cases under the Bengal Agricultural Debtors Act ought to have been given to the judicial officers of the Government. The delay in the disposal of the cases is wholly unjustifiable.

**Q. 91.** If the zamindari system is to be retained then I would support the repeal of the old regulations and earlier Acts and replace them by way of simple Acts.

**Oral evidence of Dr. Sarat Chandra Basak, Senior Government Pleader, High Court, Calcutta, on 18th March 1939.**

In reply to the Chairman, he explained that the figure of 9 crores in his reply to question 14 has been taken from question 7 of the Commission's questionnaire and represents the difference between the present raiyati assets and the assets at the Permanent Settlement. It is thought that at the time of the Decennial Settlement the produce from the land amounted to about 3 crores, of which one-eleventh was allowed to the zamindars. The difference between that and the present raiyati assets would be available to the State if the landlords and tenure-holders are removed. Land values have now decreased, especially in western Bengal where the incidence of revenue is high. He would not say that zamindaris can be sold nowadays for more than 10 times the net profit. After purchasing the zamindars and tenure-holders, the State would receive 12 crores *less* the revenue now paid and it would have to allot 3 crores annually for the sinking fund under his proposal. He agreed that interest on the bonds would also be payable and that it would be correct to say that Government will not gain 9 crores a year until after the expiry of 30 years. The interest at 3 per cent. on the bonds would amount to about 2·75 crores a year, so that at least 6 crores will be available. The sinking fund, however, could be invested and the interest from this would be available. He doubted if the income from bonds would actually be less than the present income of the zamindars, owing to the difficulties of realising rent, and the payment of road and education cesses. Collection is very expensive, because in every rent-suit, court-fees and lawyers' expenses have to be paid, and it is after the decree has been obtained that the

landlord's difficulties begin. It is one thing to obtain a decree and another to execute it and realise the amount.

He would treat occupancy raiyats who have sub-let as tenure-holders and include them within the scheme for State purchase.

Statement 8 issued by the Commission shows that there are 16·2 million raiyats. He could not say what proportion have sub-let but thought it would not be more than 10 per cent. He agreed that the effect of State purchase would be that a large part of the middle classes would be bought out and would have to seek different avenues of employment. In his view the Permanent Settlement is responsible for hampering industrial development in Bengal and has attracted large investments in land. He was in favour of giving occupancy rights to actual tillers of the soil, including bargadars. The scheme for State purchase would be a tremendous task, but mere tinkering with the present system will achieve nothing. We should aim at producing a new system that may not have to be disturbed for another 50 years. After State purchase, he was in favour of stopping transfers and sub-letting, except to agriculturists and with the permission of Government. This proposal would certainly take away some existing rights given by the Tenancy Act but he pointed out that the Tenancy Act has recently taken away some rights from the landlords without giving them any compensation. As regards the possibility of realising rents after State purchase, he said that Government has already khas mahal estates in which realisation is prompt. Whether or no landlords are retained, there should be a speedy method of collecting rents. It is true that though some tenants may not be able to pay, many of them can pay but won't. Most of the landlords are in difficulties over the payment of revenue. He mentioned a case before the Board of Revenue in which he had appeared for a zamindar who was unable to pay Government revenue as the Court of Wards which was managing the estate of the patnidar under him (zamindar) was unable to pay the superior landlord's rent. If the present campaign for non-payment of rent goes on, the position of the landlords will become increasingly difficult. Government should suppress the agitation against non-payment of rent and it is in the interest of the party in power, who will have a majority in the Legislatures to see that Government's activities are not paralysed by agitators.

In reply to a question put by the Chairman on behalf of the Maharajadhiraja Bahadur of Burdwan, he said that he is a supporter of neither the landlords nor the tenants. His motive for recommending the abolition of the Permanent Settlement is that the country must have extra money if it is not to be behind other countries.

Bengal, and the whole of India are far behind the West in the development of social services. In Bengal, land revenue is fixed, and industry is undeveloped. The only way of increasing Government's income is to tap sources which have not previously been tapped and from which a considerable amount of profit may be derived. At the Permanent Settlement the zamindars' profit was one-eleventh. Profits have greatly increased since then because of the rise in prices, the development of railways and communications, and the extension of cultivation. The Permanent Settlement was a bad bargain for Government and under present conditions should be abolished.

Khan Bahadur M. A. Momin had no question to put.

In reply to Khan Bahadur M. Hosain, he said that the profits of zamindars have increased since the Permanent Settlement. It was expected at that time that profits would increase as a result of the extension of cultivation. They were also expected to look after the interests of their tenants. In those days zamindars were resident on their estates, excavated tanks, and carried out other irrigation works, but now most of them are absentees and reside largely in Calcutta. He agreed that but for the Permanent Settlement Government would have received 11 crores. He did not agree that in the Permanent Settlement Regulation the words "all classes of people" include non-agriculturists. They are governed by the Transfer of Property Act. In the case of house property and industrial concerns, it could be difficult to fix a basis for revenue if occupancy rights were given. At the time of the Permanent Settlement there was virtually no industry, and he thought that legislation then contemplated agricultural tenants. It would be difficult to have a customary rate of rent for tenancies like shops. There are also mokararidars who have paid heavy salami for their rights, and commercial tenants whose rent must be governed by contract. In such cases the rent must vary. It depends on the law of demand and supply. Then there is the case of the tenants in villages who have homesteads only. They are protected by section 182, Bengal Tenancy Act. Probably there are very few people in villages who have no agricultural land in addition to their homesteads. He would define agriculturists as persons who themselves cultivate or who cultivate through hired labour. Bargadars consist of two classes: (1) those who are labourers and (2) those who supply the seed, cattle and plough and take a half share of the crop. In the second case, he would give occupancy rights. In the case of bargadars who have converted agricultural lands into homesteads, he said that under the present law, section 155, Bengal Tenancy Act, would apply. He did not agree that the law operates harshly, and thought that such cases should be left to contract.

In reply to Khan Bahadur Hashem Ali, he agreed that the Legislature is all-powerful and can take away the rights of any class, even arbitrarily. It is a matter of policy whether the present Government should remove the landlords and tenure-holders. He agreed that if the present state of things continues, zamindars will be placed in a difficult position, and in his view it would be advisable for them to accept compensation. Compensation should be calculated by taking the rent-roll from Settlement records and deducting revenue, cess, and collection charges which would be between 5 and 10 per cent. He would not deduct litigation costs, nor irrecoverable arrears of rent. He agreed that there may be some realisation of abwabs, but this cannot be made a general indictment against zamindars, nor did he agree that the zamindars can be called more extravagant than other people. In recent years, many zamindars have become non-resident and from that point of view it might be said that their interest in land has diminished. He agreed that bargadars who plough the same land continuously for a period of years should be given rights of tenants, but not labourers who may be changed from year to year.

Dr. Mukherji said that the gross revenue of Bengal from all sources is 38 crores but after deducting amounts paid to the Central Government, it is left with 13 crores only. Dr. Basak said he has not examined statistics but this might be so. It might also be true that the land revenue plus income-tax and the income from customs and stamps are higher in Bengal than in Bombay and other provinces. Dr. Mukherji pointed out that in Bombay the revenue is 12 crores for 15 million people and in Bengal it is 13 crores for 50 million. Dr. Basak agreed that this might be so but pointed out that the population being largest in Bengal, its financial need is greater. He had not studied the land revenue system of Madras: it might be true that though the State is the landlord the rent is higher there than in Bengal and industry is not greatly developed; but in European countries where State landlordism exists, great progress has been made. The rent in Bengal might be the lowest in India, but he had not seen statistics. When Government is the landlord the tenants pay more. It may be true that in Madras the raiyats under the Government pay twice the average rent in Bengal. Tenants in khas mahal areas in Bengal pay higher rents than tenants in the permanently settled area. He agreed that the Permanent Settlement is responsible for low rent in Bengal but maintained that the State income must be increased for the development of social services. It may be true that the tenants pay one-fifteenth of the gross produce but it has also to be remembered that many of them are illiterate and have no medical facilities. He agreed that under State landlordism, the rent should be raised where it is very low, but such enhancements should be made through law courts.

It should not be assumed however that the Government would be an exacting landlord.

He did not agree that the Permanent Settlement has diffused agricultural prosperity to the middle classes. The tenure-holders cannot be said to be "on the land". They do not cultivate or do anything for the development of the land; they simply derive a profit without contributing anything. According to his scheme tenure-holders and raiyats who are merely rent-receivers would receive interest for 30 years and after that would receive a lump sum which they can invest in banks or industries. There would be no "displacement", because rent receivers who do no cultivation have already displaced themselves from the land. The result of State purchase will be of benefit to the cultivators owing to State protection and the improvement of social services, communications, etc. It may be true that the abolition of the Permanent Settlement would lead to a decrease in the revenues from court-fees, stamps and income-tax. He did not however agree that the purchasing power in Bengal is higher than in other Provinces. He would say the purchasing power in Bengal is low. Income-tax is paid largely by industrial concerns. It may be true that 133 crores have been invested in industries in Bengal and that this is higher than the investments in Bombay, but it has to be seen who are the shareholders—whether they are Europeans, Marwaris or Bengalis. He did not agree that Bengal is ahead of other Provinces in industry. The Punjab is advancing very fast; and the share capital cannot be considered the only index. He said that Bengal is certainly far behind Bombay, the reason being the Permanent Settlement which has led to greater investments in land. Certainly there were industries in Bengal which have now disappeared, but Government cannot invest money in industries. If necessary he would draw up a programme for the development of social services such as sanitation, irrigation, communications, education and the development of agriculture. The question of economic holdings is a wide one. What would be an economic holding in Bengal would not be economic in other countries. Most cultivators do not employ any hired labour but themselves cultivate. A collective system of agriculture would be very difficult to introduce in Bengal. The law of inheritance is such that even within one generation property may be divided by ten. The position might be improved by altering the laws of inheritance but it is doubtful whether this is practicable.

Existing resources of taxation are exhausted and additional income must be taken from the land. As regards the compensation to be paid for State purchase he was not in favour of applying the principles of the Land Acquisition Act because the circumstances would be different in the case of the State purchase of zamindaris. Tenureholders

would not be thrown out of employment by State purchase because they are already unemployed.

The question of consolidating holdings must be tackled either by changing the laws of inheritance or by introducing the co-operative system of agriculture.

Mr. B. K. Roy Chowdhury did not ask any question.

In reply to Sir F. A. Sachse he said that there was some correspondence with the Government of India regarding the question whether mineral rights were included at the time of the Permanent Settlement. There has been no actual decision in the courts but Government, so far as he remembered, decided not to interfere with the landlords' mineral rights. There was, however, Privy Council decision in cases between a landlord and a mokaradar. The decision was that if the existence of the minerals was not known at the time of the Permanent Settlement, the presumption would be that there was no intention to include such rights in the lease. If that principle were to be followed in the case of zamindars' mineral rights, no special compensation would be payable for such rights. He cited as an analogy the Privy Council ruling in the Burdwan case where it was decided that land covered with water at the Permanent Settlement, although within the ambit of the estate, could be assessed to revenue on the ground that the assets had not been included at the time of the Permanent Settlement. As regards forest land there is section 31 of Regulation II of 1819 that waste lands should not be further assessed. Compensation would have to be paid on account of such lands.

He agreed that it would be of great advantage if all fisheries in Bengal were brought under the Government. Rent-free tenures and holdings could not be touched unless compensation were paid. In the case of a rent-free tenure, it is a matter between the landlord and the rent-free holder what proportion of compensation would be payable to each, because the grant was made by the landlord and not by Government.

As regards the inclusion of arrear rents in the compensation payable he said that at present when private purchases are made, arrear rents are included, but 50 per cent. is sometimes deducted as being unrealisable; but the purchaser ordinarily pays about 30 per cent. of the amount in arrears as the purchase money for those arrears. There would have to be an addition to the compensation money payable on this account. He agreed that the revenue and expenditure of a Province should not be considered only with reference to the population of that province. He was in favour of having the procedure for

rent-suits revised:—something like certificate procedure should be given, i.e., the work should be done through revenue courts. Section 148K has been little used by zamindars; probably no one has advised them to use it. Debt Settlement Boards are another reason why landlords are finding it difficult to realise their rents. As soon as a rent-suit is filed the tenants go to the Debt Settlement Boards to suspend the proceedings. He said that people would prefer to have rent adjusted through the civil courts as there is a general prejudice in favour of the civil courts. He himself would not endorse that view, and agreed that revenue officers would be in a better position to estimate the productivity of land. They have more experience and they visit the locality.

The money spent on the record-of-rights was well spent and he thought that it was a great mistake on Government's part not to revise the records after a period of 30 years. If the State purchased the interests of landlords and tenure-holders the record would have to be brought up-to-date.

He explained that he was in favour of giving occupancy rights to bargadars who supply the seed, plough and cattle as distinguished from mere labourers. He had never heard before the 1928 Act of the theory that half of the crop is paid to the bargadar as the reward for his labour, unless the landlord says so in a document executed by him, or in a document executed in his favour and accepted by him.

In reply to the Secretary, he said that if zamindars were unwilling to sell their estates, and the State wished to acquire them, there would have to be legislation to that effect. The Permanent Settlement Regulation would have to be repealed. Government might also amend the Land Acquisition Act. Landlords would be forced to accept compensation in bonds if that were provided by legislation, but the State would guarantee an income of not less than 30 per cent.

In reply to Mr. B. K. Roy Chowdhury, he said that a future Government might annul their promise given to redeem the bonds. The Provincial Legislatures have as much power as Parliament in provincial matters.

In reply to the Chairman he said that his scheme for State purchase would be consistent with the provisions of section 299 of the Government of India Act. Sir F. A. Sachse said that the Act required that fair compensation should be paid. Dr. Basak said he would consider 10 times the ~~net profit~~ to be fair compensation.

[The tables below do not take into account temporarily settled estate.]

Table I.

*Zamindars' net income excluding Government revenue, cess and collection charges assuming cent. per cent. realisation.*

|   | Crores.  |
|---|----------|
| Total raiyati assets (including khas land) of<br>permanently settled area | ... 10   |
| <i>Deduct 12½ per cent. for collection charges</i>                        | ... 1·25 |
|   | <hr/>    |
|   | 8·75     |
| <i>Deduct revenue</i>   | ... 2·15 |
|   | <hr/>    |
|   | 6·60     |
| <i>Deduct landlords' share of cess</i>                                    | ... .40  |
|   | <hr/>    |
|   | 6·20     |
|   | <hr/>    |

\*Zamindars' compensation at 10 times the net  
loss

... 10

\*In finding out zamindars' compensation, I have not deducted unrealisable rent.

Table II.

|   | Crores.  |
|---|----------|
| Government gain                                   | ... 62   |
| <i>Deduct collection charges at 12½ per cent.</i> | ... 1·25 |
|   | <hr/>    |
|   | 8·75     |
| <i>Deduct unrealisable rent at 10 per cent.</i>   | ... 1    |
|   | <hr/>    |
|   | 7·75     |
| <i>Deduct landlords' share of cess</i>            | ... .40  |
|   | <hr/>    |
|   | 7·35     |
| <i>Deduct Government revenue</i>                  | ... 2·15 |
|   | <hr/>    |
| <i>Net excess</i>                                 | ... 5·20 |
|   | <hr/>    |

Table III.

|                                      | Crores.   |
|--------------------------------------|-----------|
| Interest on 62 crores at 3 per cent. | ... 1.86  |
| Sinking fund $1/30$ of 62 crores     | ... 2.067 |
|                                      | <hr/>     |
|                                      | 3.927     |
| <i>Deduct from</i>                   | ... 5.20  |
|                                      | <hr/>     |
| Net excess in the first year         | ... 1.273 |
|                                      | <hr/>     |

For the net excess in second year add interest on sinking fund at 1 per cent.<sup>1</sup> 2.07 lakhs—i.e., .021 crores.

For the net excess in third year add to it the interest on money paid to sinking fund in the previous year plus the interest on .021 crores and so on for every succeeding year.

At the end of 30 years after the bonds are redeemed, the net excess will be 5.2 crores.

<sup>1</sup>I have taken very low rate, but in all probability, it will be higher.

Table IV.

If 2.067 crores be paid off to the holder of the bonds every year by drawing lots as advocated by me during my evidence—

|  | Crores.   |
|--|-----------|
| Net excess revenue in the first year   | ... 1.273 |
| Add interest as paid off in first year | ... .062  |
|  | <hr/>     |
| Net excess in second year              | ... 1.335 |
|  | <hr/>     |

this will go on increasing every year in arithmetical progression till at the end of 30 years, the net excess will be 5.2 crores.



